

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6288 OF 2016

Niraj Mahavir Gadiya
Age: 15 years, Occ. Student (11th Standard)
pursuing his education at Shriman P.H.
Jain Science (Sr.) and Shriman Pemrajaji
Dalichandji Surana Arts, Commerce &
Science Jr. College, Neminagar,
Chandwad – 423 101. Dist: Nashik
Permanent Resident of
Sansthan Ganpati, Sadhana Apartment,
Raja Bajar Aurangabad, Dist. Aurangabad.

Through his Natural Guardian
Shri. Mahavir Sampatraj Gadiya,
Age: 50 years, Occu. Business,
Resident of Sansthan Ganpati, Sadhana
Apartment, Raja Bajar Aurangabad(Mah.)

...APPLICANT

versus

1. The State of Maharashtra
At the instance of
Cidco Police Station, Aurangabad,
Dist. Aurangabad, Maharashtra.

2. Mr. Santosh S/o Sudhakar Sonawane,
Age: 22 years, Occu: Student,
(Pursuing- Second year- B.C.A.)
resident of Laghuvetan Colony,
Dange Classes, Mukundwadi,
Aurangabad, Maharashtra.

...RESPONDENTS

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Mr. A.D. Ostwal, Advocate for applicant
Mr. S.P. Deshmukh, APP for Respondent State
Mr. Abhishek Kulkarni, Advocate for Respondent no. 2

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**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 27th FEBRUARY, 2017.

ORAL JUDGMENT :- (Per : S.S. Shinde, J.)

1. Heard learned counsel for the applicant and APP for the respondent No. 1 – State and learned counsel appearing for respondent No. 2.

2. Rule. Rule made returnable forthwith. Heard finally, with the consent of the parties.

3. Pursuant to notices issued to the respondents, applicant and respondent No. 2 has filed joint compromise *pursis* dated 18-01-2017 on record. Respondent No. 2 has also filed affidavit-in-reply and additional affidavit in-reply. It is stated in the joint compromise *pursis* that, the incident occurred on 09-11-2016 and during the pendency of present application, the parties have arrived at compromise as they have amicably settled their dispute. The said joint compromise *pursis* is signed by the applicant and respondent No. 2 duly verified before the Registrar (Judicial) of this Court. The parties are identified by their respective learned Counsel.

4. Respondent No. 2 has filed additional affidavit in-reply on record. It is stated in said reply that, since he had lost his chain on the date of incident, therefore, after the altercation he was frightened in the night, and therefore, immediately lodged the first information report (for short "FIR"), however, when along with his friend he again went to the place of incident to search the golden chain, he found the same on the spot of incident. He did not

further persuade the first information report as the matter is amicably settled between them.

5. We have interacted with applicant and respondent No. 2, who are present in the Court. The applicant and respondent No. 2 have stated that they have voluntarily entered into the compromise and filed the joint compromise *pursis* and additional affidavit-in-reply. It is stated in the joint compromise *pursis* that, they have decided to settled their dispute amicably without any coercion or pressure and pray to quash and set aside the impugned FIR.

6. Upon hearing learned counsel appearing for the parties and also on perusal of the avertments in the affidavit-in-reply and additional affidavit-in-reply filed on behalf of respondent No. 2, it is abundantly clear that the ingredients of sections 394 of the IPC are not attracted/disclosed. The other alleged offences are punishable under sections 323, 324, 504 read with section 34 of the Indian Penal Code. Since respondent No. 2 – first informant voluntary filed affidavit-in-reply, additional affidavit-in-reply and joint compromise *pursis* and prays to quash and set aside the FIR, no fruitful purpose would be served in case the proceeding on the basis of crime bearing No. 0904 of 2016 registered with Cidco Police Station, Aurangabad for the offence punishable under sections 394, 323, 324, and 504 read with section 34 of the Indian Penal Code is allowed to be continued.

7. In light of the discussion herein-above and keeping in view the expositions of law in the cases of ***Gian Singh Vs State of Punjab and another***¹, ***Narinder Singh Vs. State of Punjab***² and ***Shiji Alias Pappu and others Vs. Radhika and another***³ we are inclined to allow this application. Accordingly, application is allowed in terms of prayer Clause "C", which reads as under.

"[C] That this Hon'ble Court may kindly be pleased to quash and set aside the crime / F.I.R. Registered vide F.I.R. No. 0904/2016 dated 10-11-2016 with CIDCO Police Station, Aurangabad under Section 394, 324, 323, 504, 34 of the Indian Penal Code, 1860."

8. Criminal Application is allowed in above terms. Rule is made absolute accordingly. There shall be no order as to costs.

Sd/-

[K. K. SO NAWANE, J.]

Sd/-

[S.S. SHINDE, J.]

MTK

1 (2012)10 SCC 303

2 (2014) 6 SCC 466

3 (2011) 10 SCC 705