

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.429 OF 2017

Vikramsinh Nivrutti Bhosale
& Ors.

.....Applicants

V/s.

The State of Maharashtra
& Anr.

.....Respondents

Mr. R.A.Naik i/by Mr. Umesh R. Mankapure, Advocates for Applicants.

Mr. H.J.Dedhia , APP for Respondent-State.

Mr. Manoj M. Badgujar, Advocate for Original Complainant.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : July 31, 2017.

P.C. :

Heard the learned counsel for the applicant/accused, the learned counsel for the complainant and the learned APP for the State.

2 This application has been preferred for quashing of the F.I.R.No.21 of 2017 of Ashta Police Station, Sangli under Sections 143, 147, 148, 149 and 307 of IPC and under Sections 3, 25 and 27 of the Arms Act and section 135 of the Bombay Police Act.

3 The learned counsel for the complainant has tendered affidavit of the complainant. The said affidavit is taken on record and marked '**X' for Identification**'. In the said affidavit, it is stated that in the victory procession after the election, the complainant received injury. Since Vikram Singh had licenced revolver, the complainant thought that Vikram Singh fired at him and injury caused to him was by fire arm. However, the medical opinion shows that injury was not by fire-arm. Thus, it appears that the allegation made by him were only on the basis of assumptions and surmises. It is further stated that parties are residents of the same village and to maintain peace and harmony amongst the parties and in the village, it is decided to settle the dispute once for all hence, the FIR be quashed.

4 We have perused the injury certificate of the complainant which shows that he had sustained two circular injuries on fore-arm. Nature of the weapon is hard and piercing object. Looking to the fact that both the injuries were on the fore-arm, which is not a vital part of the body, it cannot be stated that Section 307 of IPC would

be attracted. Looking to this fact and the settlement arrived at between the parties, we are inclined to quash and the FIR. While doing so, we place reliance on the decision of the Supreme Court in the case of **Narinder Singh and Others v. State of Punjab and Another** reported in **(2014) 6 SCC 466**. In the said decision, it was held that only because FIR/Charge-sheet incorporate the provisions of Section 307 of IPC, it would not by itself be a ground to reject the petition under Section 482 of Cr.P.C. for quashing of FIR and to refuse to accept the settlement between the parties. In the said case, the Supreme Court observed as under:

“29.6 Offences under Section 307 IPC fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of

injury sustained, whether such injury is inflicted on the vital parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship."

5 We have already observed that injury certificate shows two injuries sustained by the complainant were on the fore-arm. Medical certificate does not show that injuries were such that they could be caused by fire-arm. Looking to the injury certificate, it cannot be stated that offence under Section 307 of IPC is made out. Looking to the injury certificate, possibility of conviction under Section 307 of IPC appears to be remote and bleak. As stated earlier,

parties have amicably settled the disputes amongst themselves in order to maintain peace and harmony between the parties as well as in the village. Looking to the fact that if the trial goes on, it will lead to nothing but acquittal, however, if the trial proceeds, it would lead to turmoil in the lives of the accused persons and the complainant.

6 Thus, in view of the above facts, it will be a fit case for exercising powers under Section 482 of the Cr.P.C. and to give an end to criminal litigation between the parties. In these circumstances, the Criminal Application is allowed. FIR No.21 of 2017 and the proceedings relating thereto are quashed and set aside.

7 Application is allowed in above terms.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)