

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 21/2018

(IRFAN KHAN JASAD KHAN & ANOTHER **VERSUS** THE STATE OF MAHARASHTRA, THR. PSO PS
MORSHI, DISTRICT AMRAVATI)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.V. Navlani, counsel for the applicant.
Shri A.M. Joshi, A.P.P. for the respondent.

**CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.**
DATE : JANUARY 18, 2018.

By this criminal application, the applicants seek the quashing and setting aside of the First Information Report No.520 of 2017 registered against the applicant no.1 for the offence punishable under Section 307 of the penal Code.

The applicants were married as per the custom in the muslim community in the year 2007. The applicant no.2 started residing in her matrimonial home at Morshi along with the applicant no.1. The applicant no.1 is a mason and he is the breadwinner for the family comprising of applicant no.1 himself, the applicant no.2 and their children Ayan and Adnan. It is stated that there was a fight between the applicant no.1 and the applicant no.2 on 29.09.2017 on a trivial issue and during the fight, in a fit of anger, the applicant no.1 pushed the applicant no.2, as a result of which the applicant no.2 consumed poison. It is stated that without thinking of the repercussions, the applicant no.2 lodged the report against the applicant no.1 in the police station in a fit of rage.

It is stated on behalf of the applicants that the applicant nos.1 and 2 are residing together in the matrimonial home along with their children. It is stated that the unfortunate incident occurred on 29.09.2017 due to a fight between the parties on a petty matter. It is stated that if the first information report registered against the applicant no.1 is not quashed and set aside, the relationship between the applicant no.1 and the applicant no.2 would not be harmonious. It is stated that the applicant no.2 does not wish to take any action against the applicant no.1 as she is peacefully residing with the applicant no.1. It is stated that the minor children would be adversely affected if the first information report registered against the applicant no.1 is not quashed and set aside.

The applicant nos.1 and 2 are personally present in the Court, today. We have talked to the applicant nos.1 and 2. The applicant nos.1 and 2 have stated that they are happily residing together and the applicant no.2 does not wish to prosecute the applicant no.1. It is stated that after a small fight between the applicants, the applicant no.1 had pushed the applicant no.2, as a result of which, she had taken the drastic step in a fit of rage. It is stated by both the applicants that they would not indulge in such activities in future and live harmoniously.

After hearing the applicants, it appears that this is a fit case for quashing and setting aside the first information report registered against the applicant no.1 with a view to secure the ends of justice and to prevent the abuse of the process of the Court. The applicants are the husband and the wife and they have two minor children. It would be in the interest of all the four in the family that the first information report registered against the applicant no.1 is quashed and set aside. From their demeanour, the

applicants seem to be happily residing together. Since the applicant no.2 is not desirous of prosecuting the applicant no.1, it is most unlikely that the prosecution would result in the conviction of the applicant no.1. In the circumstances of the case and in the interest of justice, by relying on the judgment of the Hon'ble Supreme Court in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in **(2014) 6 SCC 466**, it would be necessary to quash and set aside the first information report registered against the applicant no.1.

Hence, the criminal application is allowed. The first information report registered against the applicant no.1 is hereby quashed and set aside. Order accordingly.

JUDGE

JUDGE

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