

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

CRIMINAL APPLICATION (APL) NO. 118/2018

(RAJU DHARMA RATHOD **VERSUS** STATE OF MAHARASHTRA, THR. PSO PS PARVA, TALUKA ARNI,
DISTRICT YAVATMAL & ANOTHER)

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

Court's or Judge's orders

Shri A.S. Kilor, counsel for the applicant.
Mrs. N.R. Tripathi, A.P.P. for the NA-1.
Shri A.S. Sonare, counsel for the NA-2.

**CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : APRIL 11, 2018.

By this criminal application, the applicant seeks the quashing and setting aside of the first information report registered against the applicant for the offences punishable under Sections 448, 324, 323 and 506 of the Penal Code and Section 3(1)(3) of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The non-applicant no.2 had lodged a complaint against the applicant stating therein that the applicant had abused the non-applicant in the name of her caste and had also assaulted her daughter and threatened her husband of dire consequences. On the basis of the complaint lodged by the non-applicant no.2, offences were registered against the applicant under the provisions of Sections 448, 324, 323 and 506 of the Penal Code and Section 3(1)(3) of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, 1989. The non-applicant no.1 had referred the matter to the learned Magistrate and an intimation was given to the non-applicant no.2 to attend the Court for recording the statement. It is stated that before the issuance of the said intimation, the non-applicant no.2-complainant has stated on affidavit that due to

misunderstanding, the complaint came to be lodged by her against the applicant and that she does not want to pursue the complaint. It is stated that even before the filing of the said affidavit, the villagers in the concerned village had made a representation to the Tahsildar that the dispute should be settled and the villagers should live peacefully. In the aforesaid background, the applicant has sought for the quashing and setting aside of the first information report registered against him as the non-applicant no.2 is not desirous of pursuing the matter on the basis of the complaint lodged by her as she had lodged the said complaint due to misunderstanding.

Shri Sonare, the learned counsel for the non-applicant no.2, admits the statements made by the applicant in the criminal application. It is fairly stated that due to some misunderstanding and a quarrel between the applicant and the non-applicant no.2, the non-applicant no.2 had filed the complaint against the applicant. It is stated that the matter between the applicant and the non-applicant no.2 is settled and she does not wish to pursue the matter initiated on the basis of her complaint against the applicant.

In the circumstances of the case, since the lodging of the first information report was due to misunderstanding between the non-applicant no.2 and the applicant and since the non-applicant no.2 does not wish to pursue the matter against the applicant on the basis of the complaint lodged by her, it is unlikely that the prosecution would result in the conviction of the applicant. If the non-applicant no.2 has lodged the complaint due to misunderstanding and if she is not ready to pursue the matter, continuance of the proceedings against the applicant on the basis of the complaint lodged by the non-applicant no.2 would result in the abuse of the process of the Court. Hence, in order to prevent the

abuse of process of the Court and to secure the ends of justice, it would be necessary to quash and set aside the first information report registered against the applicant by following the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in **(2014) 6 SCC 466**.

Hence, for the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicant for the offences punishable under Sections 448, 324, 323 and 506 of the Penal Code and Section 3(1)(3) of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the proceedings arising therefrom are quashed and set aside.

Order accordingly.

JUDGE

JUDGE

APTE