

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4085 OF 2019

Akshay Tukaram Jadahv ...Petitioner

Versus

The State of Maharashtra & anr. ...Respondents

Mr. Shailesh Chavan, a/w Sangram Mudhekar, for the
Petitioner.

Mr. Balwant Salunkhe a/w Mr. Atul Chikane, for the
Respondent.

Mr. F. R. Shaikh, APP for the State/Respondent.

CORAM: RANJIT MORE &
N. J. JAMADAR, JJ
DATED: 6th SEPTEMBER, 2019

PC:-

1. Heard Mr. Chavan, the learned Counsel for the petitioner, Mr. Salunkhe, the learned Counsel for Respondent no.2 and Mr. Shaikh, the learned APP for the State.

2. The petition is filed for quashing and setting aside the FIR being CR No. 263 of 2019 with Satara Taluka Police Station, dated 16th July, 2019, at the instance of respondent No.2, for the offences punishable under Sections 307, 324, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(r)(s), 3(2)(v), 3(2)(va), 6 of the Scheduled Castes and Tribes (Prevention of Atrocities) Act 1989.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of the

investigation in the subject FIR, the parties have amicably settled the dispute, and upon an understanding arrived at between them, filed the instant petition for quashing the subject FIR by consent. The FIR was filed by respondent No.2. In pursuance of the settlement, Respondent no.2 Akash Rokade as well as the injured person, namely, Mahesh Shingate have filed Affidavits, dated 5th August, 2019 and 4th September, 2019 respectively. In the said Affidavits they have given no objection for quashing and setting-aside the subject FIR. Respondent No.2 and injured person are personally present before the Court. On being questioned, they specifically stated that they have gone through the petition and the affidavit as well and have fully understood the contents thereof. They further confirmed that they are giving no objection for quashing and setting aside the subject FIR on their own free will and without there being any pressure or coercion.

4. It is true that the offence under section 307 of IPC is of serious nature and is an offence against the society. Consequently, such an offence cannot be quashed by consent. Nonetheless, it would be advantageous to refer to Paragraph 28 of ***Narinder Singh vs. State of Punjab*** [2014 AIR SCW 2065], wherein the Apex Court has held as under :

“28. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well. Therefore, only because FIR/Charge-sheet incorporates the provision of Section 307 IPC would not, by itself, be a ground to reject the petition under section 482 of the Code and refuse to accept the settlement between the parties. We are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 IPC, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid circumstances, if the High Court forms an opinion that provisions of Section 307 IPC were unnecessarily included in the charge sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties.”

The decision of the Apex Court, thus, makes it clear that the Court cannot decline to quash the FIR merely because the FIR incorporates a particular provision which is a serious offence or an offence against the society. The Court has to endeavour to find out whether the FIR indeed discloses ingredients of such offence and that the Court can accept the settlement and quash the FIR/Charge-sheet if the Court is of the opinion that such an offence is unnecessarily incorporated in the charge-sheet.

5. So far as the instant case is concerned, we have gone

through the medical evidence showing injuries sustained by injured, which are simple in nature, and it is a dispute between private parties. We are, therefore, of the opinion that the offence under section 307 is not made out. Consequently, no fruitful purpose will be served by continuing with the prosecution.

6. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of ***Madan Mohan Abbot vs. State of Punjab***, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

7. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of ***Narinder Singh*** (supra) we are of the considered view that there is no impediment in quashing the subject FIR.

8. In that view of the matter, writ petition is made absolute in terms of prayer clause (a). As the police machinery and the Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Petitioner with the cost of Rs.20,000/-, which shall be paid to

the “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

9. Subject to above, the writ petition stands disposed of.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]