

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2363 OF 2019

Vighnaharta Vishwajeet Singh
@ Vidnesh & Ors.

.. Petitioners

Vs.

The State of Maharashtra
& Anr.

.. Respondents

Mr.A.M. Saraogi for petitioners.

Mr.Deepak Thakare, PP a/w. Mr.A.D. Kamkhedkar, APP for respondent
No.1-State.

Mr.P.H. Jaggi for respondent No.2.

**CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.**

DATE : 11TH SEPTEMBER 2019

P.C.

1. Heard the learned counsel for the petitioners, the learned APP for the respondent No.1-State and the learned counsel for the respondent No.2.

2. The petition is filed for quashing and setting aside the First Information Report bearing C.R.No.471/2018, at the instance of the respondent No.2, registered with Kurar Police Station, Mumbai, for the offences punishable under sections 307, 387, 324, 323 and 504 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The complainant has placed on record an affidavit dated 17th July 2019 and in Paragraph 5 of the said affidavit, has given his no objection for quashing the subject FIR. However, a strong objection is taken by Shri Shaikh, the learned APP.

4. Since the Supreme Court has, time and again, made it clear that serious offences like the offence under section 307 cannot be quashed even by consent, we went into the merits of the matter.

5. Shri Saraogi, the learned counsel for the petitioners submitted that the FIR does not disclose the offence under section 307 of IPC, therefore, with the assistance of Shri Shaikh, the learned APP, we have gone through the injury certificate of the complainant and the other two victims. Taking into consideration nature of the the injuries, the parts of the body on which the blows were inflicted and the sharp and deadly weapons used by the petitioners, we are of the *prima-facie* view that the commission of offence under section 307 of IPC is revealed in the FIR. We are, therefore, not inclined to quash the subject FIR even with the consent of the aggrieved party.

6. Shri Saraogi, at this stage, having taken instructions from his clients, seeks leave to withdraw the petition with liberty to file a fresh anticipatory bail application on behalf of the petitioner Nos. 3 and 4 before the Trial Court. We are informed that the petitioner Nos.1 and 2 are

already released on regular bail. The Anticipatory Bail Applications of the petitioner Nos.3 and 4 are rejected by the Trial Court and the learned Single Judge of this Court. However, in the peculiar circumstances of this case, we allow the petitioner Nos.3 and 4 to file fresh application for anticipatory bail before the appropriate Court. In the event, such application is filed, the said application shall be considered on its own merits and in accordance with law.

7. The petition accordingly stands disposed of.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]