

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APL) No.570/2020(Criminal Application (APL LDVC) No.814/2020)

- 1) Abdul Javed s/o Abdul Salim,
aged about 32 years, Occ.- Labourer,
- 2) Abdul Juned s/o Abdul Salim,
Aged about 19 years, Occ.-Labourer,
- 3) Abdul Akeel s/o Abdul Hamid,
Aged about 36 years, Occ.-Labourer,
- 4) Mohd. Mazhar s/o Mohd. Izaz,
Aged about 20 years, Occ.- Labourer,
- 5) Mohd Ejaz s/o Mohd Hanif,
Aged about 58 years, Occ.-Business,
- 6) Mohd. Sufiyan s/o Mohd Ejaz,
Aged about 35 years, Occ.- Service,
- 7) Rehan Ahmad s/o Mohd. Ejaz,
Aged about 31 years, Occ.- Labourer,
Nos. 1 to 7 R/o Javali Base, Tq. Balapur, Dist-Akola. Applicants.

-Versus-

State of Maharashtra,
through Police Station Officer,
Police Station Balapur, Tq. Balapur, Dist. Akola. Non-applicant.

 Shri Sandeep Chopde, Advocate for the applicants.
 Shri S.M. Ukey, Add. Public Prosecutor for the State.

CORAM : Z.A. HAQ & S.M. MODAK, JJ.

DATE : 21-07-2020.

Oral Judgment (Per S.M. Modak, J.)

An offence came to be registered with Balapur Police Station Akola for the offence punishable under Section 326 of the Indian Penal Code on 04-06-2020. It is still under investigation. Pending investigation, this application has been filed jointly by the four accused persons, two victims and

the first informant/their father. It is supported by affidavit of the complainant and two victims i.e. applicants no.5 to 7.

2. We have heard learned Advocate for the applicants and the learned Additional Public Prosecutor. With their assistance, we have perused the contents of the First Information Report and the contents of the application. Applicant no.5—Mohd. Ejaz is the first informant and applicants no. 1 to 4 are the accused, whereas applicant no.6-Mohd Sufiyan and applicant no.7-Rehan Ahmad are the injured persons. These two injured have been assaulted with the help of pipe. The reason seems to be trifle. Earlier to this incident victim/applicant no.7-Rehan Ahmad abused accused/applicant no.1- Abdul Javed and all the accused went to his house in order to question him. Victim Rehan Ahmad and his brother Mohd. Sufiyan were assaulted. This was seen by their father/applicant no.5-Mohd Ejaz.

3. He went to Balapur Police Station and lodged the complaint. We are inclined to accept the request for quashing for various reasons. Yet the offence is at investigation stage and charge-sheet is not filed. There is no reason to disbelieve the averments in the application and reasons for compromise. The accused persons on one hand and the complainant and victim on the other hand are neighbours and distant relatives. The reason for assault does not seem to be very serious and it must have prompted them to enter into compromise. We are conscious of various guidelines given by the Hon'ble Supreme Court in various judgments including judgments in case of Gian Singh v State of Punjab and another, reported in (2012) 10 SCC 303, Anita Maria Dias and another v State of Maharashtra and another, reported in (2018) 3 SCC 290 and latest judgment in case of State of Madhya Pradesh v Laxmi Narayan and others, reported in (2019) 5 SCC 688.

4. It is true that the offence under Section 326 of the IPC is non compoundable offence. We have considered the effect of pendency of this case on the relations in between the parties on one hand and the restoration of peace in between the parties if the proceedings are quashed on the other hand. If both the parties are required to attend the trial Court, the relationship will be soured. We have also considered the stage at which both the parties have approached this Court. The charge-sheet is yet to be filed so, we are accepting the request for quashing. The power to quash the proceeding is wider than the power to permit compromise under Section 320 of the Code of Criminal Procedure. Hence, in the best interest of the parties and in the interest of justice, we are passing the following order :-

ORDER

- a) Criminal Application (APL LDVC) No.814/2020 is allowed.
- b) The First Information Report No. 243/2020 registered at Balapur Police Station Akola for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code is quashed and dropped.
- c) Further proceedings are also dropped.
- d) Inform the concerned Court.
- e) The accused/applicants no. 1 to 7 stand discharged from the said case.
- f) Their bail bonds shall stand cancelled.

JUDGE

JUDGE