

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 CRIMINAL APPLICATION NO.177 OF 2021

DADABHAI TUKARAM PIMPALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S.P. Brahme, Advocate for the applicant.
Mr. S.J. Salgare, A.P.P. for respondent - State

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CORAM : **SUNIL P. DESHMUKH AND
N.B. SURYAWANSHI, JJ.**

DATE : 21-09-2021.

ORDER :

1. By this application filed under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of Sessions Case No. 43/2021 pending before the Sessions Judge, Shahada, District Nandurbar registered on the basis of F.I.R. at Crime No.955/2020 for the offences punishable under Sections 307, 324, 323, 504, 506, 498-A read with Section 34 of the Indian Penal Code.

2. The second respondent / informant is the wife of applicant No.1 and applicant No.2 is the sister-in-law of second respondent. She lodged F.I.R., in short alleging that her marriage with applicant No.1 took place on 27th April 1996. After the marriage applicants were ill-treating her on one pretext or other. Lastly, on 12.12.2020 at about 9.30 a.m. applicant No.2 instigated applicant No.1 and he assaulted the daughter Fuansha with steel spatula and caused her serious injuries. Applicant No. 1 also pressed the neck

of the informant and banged her head on kitchen ota, due to the assault the informant and daughter Fuansha sustained serious injuries.

3. After conducting investigation, charge-sheet came to be filed and case is numbered as Sessions Case No.43/2021.

4. Immediately after the incident, the parties have amicably settled their dispute out of the Court. Affidavit confirming settlement of matrimonial dispute is filed by respondent No. 2 / the informant – wife, stating that applicant No. 1 and the informant have been married since 25 years and son Yalgar, aged 24 years and daughter Fuansha, aged 22 years are born out of the wedlock. After the date of incident, applicant No. 1 husband and informant – wife as well as son and daughter have started residing together. Marriage of Fuansha was performed on 14.02.2021 and she is leading a happy married life.

5. Learned A.P.P. opposed the prayer for quashing, stating that after completion of investigation charge-sheet has been filed, and therefore, the F.I.R. and proceedings should not be quashed.

6. We have perused the charge-sheet. The injury certificate of respondent No.2 indicates that she had suffered four injuries i.e. (1) blunt trauma to right temporal region of head (2) blunt trauma to right shoulder, swelling was present (3) contusion over left elbow and (4) abrasion over left 2nd and 3rd toes. The injury certificate records that injury Nos.3 and 4 are simple and MRI of right shoulder was advised. There is no material on record to show that

MRI was done and serious injuries were noticed on the person of respondent No. 2 – wife.

7. Injury certificate of daughter Fuansha shows that she suffered following injuries :

- (i) Incised wound over left palm of 3 x 1x 1 cm;
- (ii) Linear abrasion over left thumb, left arm, left forearm and left thigh, anterior aspect;
- (iii) Blunt trauma to neck.

All the injuries are stated to be simple.

8. Taking into consideration the nature of injuries and the part of the body on which they are inflicted, we are of the considered view that Section 307 of the Indian Penal Code is not attracted in the present case. Admittedly, the injuries suffered by both the injured are simple. The parties have resolved their matrimonial dispute amicably and applicant No. 1 - husband and respondent No. 2 -wife are staying together and the daughter is married. Further, taking into consideration the affidavit filed by respondent No. 2-wife and Fuansha (injured) confirming the amicable settlement of the dispute, we are of the considered view that continuation of the prosecution of applicants would be an abuse of process of law.

9. In the result, Criminal Application is allowed in terms of prayer clause 'B-1'. Accordingly the F.I.R. at Crime No.955/2020 for the offences punishable under Sections 307, 324, 323, 504, 506, 498-A, 109 of I.P.C. registered with Shahada Police Station, District

Nandurbar and proceedings pursuant to the same bearing Sessions
Case No. 43/2021, are quashed and set aside.

(N.B. SURYAWANSHI, J.)

(SUNIL P. DESHMUKH, J.)

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