

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2236 OF 2020

Abhimanyu s/o Rajendra Tak,
Aged-28 years, Occu: Student,
R/o Near Lalit Kala Bhavan, Kadrabad Plot,
Parbhani, Tq. And Dist. Parbhani

... APPLICANT

VERSUS

1. The State of Maharashtra,
through Nanalpeth Police Station, Parbhani,
District Parbhani.
2. Jaipal S/o Satbirsing Kagda,
Age-33 years, occu: Labour,
3. Vijaypal @ Sachin S/o Satbirsing Kagda,
Age-26 years, Occu: Labour
4. Husharibai w/o Satbirsing Kagda,
Age-58 years, Occu: Household
5. Sarita D/o Satbirsing Kagda,
Age-24 years, Occu: Household,
6. Harish s/o Haripal Kagda,
Age-19 years, Occu: Student,

The respondent No. 2 to 6 R/o Kadrabad Plot,
Parbhani Tq. And Dist Parbhani.

.... RESPONDENTS

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Mr. Sudhir K. Chavan, Advocate for applicant
Mr. A.S. Shinde, APP for respondent No. 1 – State
Mr. C.V. Bodkhe, Advocate for respondent Nos. 2, 3, 5 and 6

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 17th AUGUST, 2021

PER COURT :-

1. Leave to correct the prayer clause to the extent of registration number of the case bearing Regular Criminal Case No. 387 of 2020.
2. With consent of the parties heard finally at the admission stage.
3. The applicant is an accused in connection with crime No. 422 of 2019 with consequential case bearing Regular Criminal Case No. 387 of 2020 for the offences punishable under Sections 307, 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code (for short "IPC"). The applicant has filed this application for quashing of the Regular Criminal Case No. 387 of 2020 on settlement.
4. Learned counsel for the applicant submits that though initially the name of applicant was mentioned in the first information report (for short "FIR"), however, during the course of investigation the statements of injured witnesses and the informant came to be recorded wherein they have also alleged about the involvement of the present applicant

and original accused No. 2- Suraj Dharmendra Tak, accused No. 3- Shiva Dharmendra Tak and accused No. 4 Karan Dharmendra Tak respectively. So far as the present applicant is concerned, it has been specifically stated in the statements that due to misunderstanding they have taken his name as one of the assailants. Learned counsel submits that otherwise also the informant and his injured brother have sustained only simple injuries.

5. Learned counsel for respondents No. 2, 3, 5 and 6 submits that the parties have arrived at amicable settlement in order to maintain cordial relations. Learned counsel for the respondents submits that due to some misunderstanding, the allegations may have been made against the applicant. During the course of investigation the informant and injured witnesses have given their supplementary statements. The respondents No. 2, 3, 5 and 6 have no objection if the Regular Criminal Case is quashed qua present applicant.

6. Learned APP submits that in terms of ratio laid down in the case of Narinder Singh Versus State of Punjab and others reported in (2014) 6 SCC 466, it is necessary to examine as to whether the prosecution has collected sufficient evidence and on the basis of which there is possibility of conviction.

7. We have carefully perused the copy of the charge-sheet, particularly the statements of the informant and injured witnesses recorded during the course of investigation. The informant and injured witnesses have stated in their respective police statements that due to some misunderstanding the name of present applicant is mentioned in the FIR. According to the informant and injured witness, who happens to be the real brothers, three accused persons i.e. accused No. 2- Suraj Tak, accused No. 3- Shiva Tak and accused No. 4 Karan Tak, they are the persons responsible for the incident. It further appears from the statements of certain independent witnesses that the applicant reached to the spot when the incident was over.

8. Furthermore, the parties have arrived at amicable settlement, respondent Nos. 2, 3, 5 and 6 have submitted their affidavit to that effect. On perusal of the affidavit, it appears that they have stated in their affidavit that they have to maintain cordial relations. We find that the parties have arrived at amicable settlement voluntarily. The informant and his brother Vijaypal @ Sachin Satbirsing Kagada have sustained only simple injuries. So far as respondent Nos. 5 and 6 are concerned, there are allegations against main accused that during the course of assault, the accused persons have pushed them and they have

not received injuries as such. In the case of ***Gian Singh Versus State of Punjab and others***, reported in **(2012) 10 SCC 303**, the Supreme Court in para 48 has quoted para 21 of the judgment of the five-Judges Bench of the Punjab and Haryana High Court delivered in **Kulwinder Singh v. State of Punjab (2007) 4 CTC 769**, wherein *the offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted and except heinous offences like highway robbery, dacoity or a case involving clear cut allegations of rape, the quashing of the FIR on the basis of settlement is permissible.*”

9. In the case of **Narinder Singh Versus State of Punjab and others (Supra)** the Honourable Supreme Court has laid down the principles by which the High Court guided in giving adequate treatment to the settlement between the parties and exercising its powers under Section 482 of the Cr.P.C. So far as the present case is concerned, clause 29.6 from the said judgment is reproduced hereinbelow :

“(29.6) Offences under [Section 307](#) IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is

framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

10. In the instant case, the informant and his brother have sustained only simple injuries. Furthermore, so far as the present applicant is concerned, there are no allegations against him. The informant and injured witness and other witnesses have stated in their

respective police statements during the course of investigation that due to some misunderstanding the name of the applicant is mentioned in the FIR. In fact he was not present during the course of the incident. In view of the same, we are of the opinion that there is no possibility of conviction. Furthermore, settlement between the parties is going to result in harmony between them which may improve their future relationship. In view of the above, we proceed to pass the following order:

:Order:

1. The Criminal Application is allowed in terms of prayer clause “C” qua present applicant.
2. Criminal application accordingly stands disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(V. K. JADHAV)
JUDGE

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