

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

987 CRIMINAL WRIT PETITION NO. 1656 OF 2020

Rahul S/o. Padmakar Darandale,
Age : 33 years, Occ : Agri.,
R/o : Sonai, Tq : Newasa,
Dist : Ahmednagar.

...Applicant.

Versus

1. The State of Maharashtra,
Through Sonai Police Inspector,
Tq : Newasa, Dist : Ahmednagar.

2. Santosh S/o. Popat Barhate,
Age. 41 years, Occ : Agri.,
R/o. Signapur Road, Barhate Vasti,
Tq. Newasa, Dist. Ahmednagar.

...Respondents.

Advocate for Petitioner : Mr. N.B. Patekar.
APP for Respondent No. 1 / State : Mr. S.J. Salgare.
Advocate for Respondent No. 2 : Mr. S.R. Zambare.

**CORAM : SUNIL P. DESHMUKH AND
NITIN B. SURYAWANSHI, JJ.
DATED : 07.09.2021**

JUDGMENT (PER : NITIN B. SURYAWANSHI, J.) :

1. This petition seeks quashing of FIR in Crime No. I – 0272/2020, registered at Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 326, 329, 365, 324, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3/25 of the Arms Act, 1959, registered at the instance of respondent No. 2.

2. It is alleged in the FIR that on 23.07.2020, in the evening around 7:00 p.m., the applicant by pointing out countrymade pistol at the informant asked him to sit in the vehicle. Two persons were already in the vehicle. After the vehicle was driven for some time, the informant was asked to alight and he was assaulted with the countrymade pistol, due to which the informant lost his front teeth. The two unknown persons assaulted the informant with fighter (iron instrument), thereafter, the informant was assaulted with kicks, fist blows, belt and wooden log. At around 2:00 a.m. in the night of 24.07.2020, the informant was left in front of his house.

3. During the pendency of the present matter the parties have amicably settled the matter. A joint compromise purshis on behalf of applicants and respondent No. 2 is filed on record, wherein, it is stated that the applicant and the informant are the resident of the same village and they are close relatives of each other. The complaint was lodged due to misunderstanding and miscommunication as there had been some quarrel between the parties. However, the dispute has been resolved with the intervention of the elder family members and both have decided not to indulge in quarrel and maintain peaceful relations with each other and they will not repeat or commit such type of incident.

4. Learned Advocate for the applicant by relying on *Gian Singh Versus State of Punjab and Another*, **2013 (1) SCC Online SC 769** ; *Narinder Singh and Others Versus State of Punjab and Another*, **2014 SCC Online SC 265** ; *Parbatbai Aahir and Others Vs. State of Gujrat and Another*, **2017 SCC Online SC 1189**, submitted that the present crime does not fall in the category of heinous and serious crime and taking into consideration the amicable settlement between the parties, the petition deserves to be allowed by quashing the FIR.

5. Learned APP opposed the application of the applicant contending that there are criminal antecedents of the applicant as there are two more crimes registered against him.

6. Learned Advocate for the applicant countered this submission by relying on the decision in *Sushil Kantilal Bafna and Another Versus Akash Vilas Shinde and Another*, **2021 DGLS (Bom.) 245**.

7. On going through the report of the Investigation Officer, we find that the applicant is not facing trial for serious offences, therefore, we are inclined to consider the matter on merit.

8. We have perused the papers of investigation made available by

the learned APP. On going through the injury certificate, we find that all the injuries suffered by the informant/respondent No. 2 are simple including the loosening of upper jaw teeth. The alleged weapon i.e. countrymade pistol used in the incident has not been recovered during the investigation. A stick was recovered at the instance of the applicant. Taking into consideration the nature of injury suffered by the informant and material collected by the prosecution, we are of the view that there is no material on record to sustain the charge under Section 326 of the Indian Penal Code.

9. In view of the amicable settlement of the dispute between the parties before filing of the charge-sheet even if the trial is allowed to proceed, it would be a futile exercise and there are no chances of conviction. In that view of the matter, we are inclined to allow the application.

10. Criminal Application is allowed. The FIR in Crime No. I – 0272/2020, registered at Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 326, 329, 365, 324, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3/25 of the Arms Act, 1959, is hereby quashed and set aside.

11. The applicant and respondent No. 2 are hereby directed to pay an amount of Rs. 15,000/- (Rupees fifteen thousand) each to the Advocates Bar Association, High Court, Aurangabad, towards costs within a period of two weeks from today.

(NITIN B. SURYAWANSHI, J.)

(SUNIL P. DESHMUKH, J.)

S.P.C.