

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

CRIMINAL WRIT PETITION NO. 1317 OF 2021

1. Shri. Aashish Bansi Jagdhane
Age- 32, Indian Inhabitant,
R/at. Shrikrishna Mandir, Gavlimatha,
Telco Road, Bhosari, Pune.
2. Shri. Irfan Yunus Shaikh
Age- 29, Indian Inhabitant,
R/at. Dwarka Platinum, Flat No. A/1
Near Bank of Maharashtra,
Bhosari, Pune.
3. Shri. Jitesh Madhukar Manjule
Age- 28, Indian Inhabitant,
R/at. Parvati Nivas, Manjule Chawl,
Near Bhagwat geeta, Kharalwadi,
Pimpri, Pune.
4. Shri. Javed Nisar Auty
Age- 29, Indian Inhabitant,
R/at. Shanbhuraje Colony, Bhosari,
Pune.
5. Shri. Aakash Bhikaji Hajare
Age- 28, Indian Inhabitant,
R/at. 114/2, Sahog Colony, Nadhe Nagar,
Kalewadi, Pune.

...PETITIONERS

Versus

1. The State of Maharashtra
Through Pimpri Police Station.
2. Shri. Nilesh Subhash Jadhav
Age- 35, Indian Inhabitant,
R/at. Chaudhari Chawl, Behind Jyoti
English School, Nehru Nagar, Pimpri,
Pune.

...RESPONDENTS

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Mr. Vaibhav Ugle for Petitioners.
Dr. F.R Shaikh, APP for State.
Mr. Sujit Bugde, for Respondent No. 2.

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**CORAM : S. S. SHINDE &
MANISH PITALE, JJ.**

DATE : 12th MARCH, 2021.

JUDGMENT [PER S.S. SHINDE, J.]:

. This petition takes an exception to the FIR No. 652 of 2020 registered with Pimpri Police Station for the offences punishable under Sections 307, 141, 143, 144, 147, 148, 149, 427 of Indian Penal Code, Section 4 and 27 of Arms Act, 1959, Section 3 and 7 of Prevention of Damage to Public Property Act, 1984, and Section 37 (1) and 135 of Bombay Police Act, 1951.

2. It is submitted that the parties have amicably settled the dispute, therefore, on the basis of alleged settlement the FIR may be quashed. Learned counsel appearing for the Petitioner in the alternate submits that even on merits the impugned FIR deserves to be quashed.

3. Learned counsel appearing for the petitioners submit that the allegations levelled by Respondent No. 2 against the petitioners are due to political vendetta. During the course of investigation the investigating officer came to the conclusion that no offence under Section 307 of IPC is made out

against the Petitioners and the investigating officer vide its report dropped Section 307 of IPC. It is submitted that the FIR is registered as counter blast to the complaint registered against the second respondent and other accused on 31st October 2020 with Pimpri Police Station bearing FIR No. 653 of 2020. The allegations made in the subject FIR are without any substance and continuing the further investigation would tantamount to the abuse of the process of law.

4. Learned counsel appearing for Respondent No. 2 invited our attention to the affidavit filed by the 2nd respondent and submits that the parties have amicably settled the dispute, therefore, the impugned FIR may be quashed.

5. We have carefully perused the averments in the affidavit filed by Respondent No.2. There is no any cogent reasons stated in the affidavit, so as to consider the prayer for quashing the impugned FIR on the basis of amicable settlement. It is only mentioned in the affidavit that there is no objection for quashing the FIR.

6. We have carefully considered the allegations in the FIR and we are of the *prima facie* opinion that the allegations in the FIR are very serious in nature. The alleged incident had taken place at about 9.30 p.m. The

accused were carrying deadly weapons like chopper, bat, wooden logs, sword and scythe. It is alleged that the accused assaulted the informant by sword, however, the informant managed to escape from the said attack. It appears that informant was assaulted all over the body.

7. It is submitted by learned counsel appearing for the Petitioners that Section 307 IPC has been deleted by the investigating officer. In our *prima facie* opinion, keeping in view the serious allegations in the FIR, Section 307 of IPC could not have been deleted by the Investigating Officer. The alleged offence had taken at public place during night time, which in our opinion has great impact upon society. Therefore, it is not appropriate to quash the FIR on the basis of alleged settlement or on merits.

8. The Supreme Court in the case of ***The State of Madhya Pradesh Vs. Laxmi Narayan and others***¹ observed that while considering the prayer for quashing the FIR on the basis of settlement, the stage of the investigation should be taken into consideration and the investigating officer should be allowed to complete the investigation. The offences alleged in the present impugned FIR are also serious in nature and therefore, it is necessary to allow the investigating officer to complete the investigation.

1 (2019) 5 SCC 688

9. Therefore, the prayer of the Petitioners to quash the impugned FIR on the basis of alleged settlement stands rejected. Even otherwise on merits the impugned FIR cannot be quashed. The writ petition stands rejected.

10. We direct the Commissioner of Police, Pimpri-Chinchwad, to cause inquiry of concerned investigating officer for not causing proper investigation and casually deleting Section 307 of IPC from the FIR. The Commissioner of Police, Pimpri-Chinchwad to submit report to this Court within four weeks.

11. The Registry shall send copy of this order to the office of Commissioner of Police, Pimpri-Chinchwad by the fastest mode of communication.

12. The observations made herein above are *prima facie* in nature and confined to the adjudication of the present writ petition only.

13. List the matter on 22nd April 2021 under the caption 'For Compliance' of directions to the Commissioner of Police, Pimpri-Chinchwad.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)