

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO. 668 OF 2021

- 1) Pawan @ Sandip Omprakash Sharma,
Aged about 40 Years, Occ. : Agriculturist,
- 2) Arun Omprakash Sharma,
Aged about 48 Years, Occ. : Business,
- 3) Omprakash Murlidhar Sharma,
Aged about 70 Years, Occ. : Business,

All the above (1) to (3) are
R/o. At Post Eranda, Tq. Barshitakli,
Dist. Akola.

.....APPLICANTS

... **VERSUS** ...

- 1) State of Maharashtra
Through Police Station Officer,
Police Station, Barshitakli,
District : Akola.
- 2) Narendra S/o. Murlidhar Sharma,
Aged about 59 Years, Occ. : Agriculturist,
R/o. Durga Apartment, Flat No.A-3,
Nityanand Nagar, Gourakshan Road,
Akola, Tq. & Dist. Akola

.....NON-APPLICANTS

Shri S. V. Sirpurkar, Advocate for the Applicants.

Shri V. A. Thakare, Additional Public Prosecutor for the Non-applicant
No.1/State.

Shri D. I. Jain, Advocate for the Non-applicant No.2.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 10.08.2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.

2. Rule. Rule is made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicants are challenging registration of the First Information Report No.229/2020 dated 14.05.2020 registered with the non-applicant no.1 - Police Station along with charge-sheet No.79/2020 dated 05.08.2020 for the offences punishable under Sections 307, 504 read with Section 34 of the Indian Penal Code and Sections 4, 25 of the Indian Arms Act.

4. The First Information Report came to be registered against the applicants with the accusations that when the non-applicant No.2 went to work at the place owned by him, the applicants allegedly abused him and beat him. It is alleged that the applicants assaulted the non-applicant No.2 on hand by using sword and threatened to kill him.

5. The Investigating Agency completed the investigation and filed charge-sheet against the applicants. During the pendency of the proceedings, non-applicant No.2 filed an affidavit in Bail Application No. 566/2020 stating that the dispute arose out of family dispute and the parties have decided to settle their dispute. The non-applicant No.2 filed an affidavit dated 22.10.2020 in Bail Application No.566/2020 stating that in order to have cordial

relations in the family, the non-applicant No.2 does not want to precipitate the things and wants to settle the matter amicably.

The applicants have therefore, filed present application challenging registration of the First Information Report and Charge-Sheet.

6. This Court on 22.07.2021, issued notice to the non-applicants. It is stated in the said order that the learned Additional Public Prosecutor shall obtain instructions in respect of criminal antecedents against the applicants and the non-applicant No.2.

7. In pursuance of the said order, the non-applicant No.1 has filed affidavit/reply dated 04.08.2021. It is stated in the said reply that there is enmity between the family members of the applicants and the non-applicant No.2 and the applicants have filed crime No.146/2018 against the non-applicant No.2 and the non-applicant No.2 has also challenged registration of the First Information Report and Charge-Sheet. It is stated that another crime has been registered against the applicants on the basis of report lodged by the wife of the non-applicant No.2 bearing crime No.150/2018. It is stated that the non-applicant No.2 has sustained injury on temporo parietal region of palm and ear.

8. Since it is undisputed that the parties have decided to resolve their dispute mutually, we have carefully considered the allegations in the First Information Report and the material produced before this Court in the form of charge-sheet. Insofar as the offence under Section 307 of the Indian Penal Code is concerned, though it is serious offence, at this stage, it would be profitable to refer the judgment of the Hon'ble Apex Court in the case of *Narinder Singh & others Vs. State of Punjab & anr.* reported in *(2014) AIR SCW 2065*. The decision of the Hon'ble Apex Court makes it clear that the Court cannot declare to quash the First Information Report merely because the First Information Report incorporates a particular provision which is a serious offence or offence against society. The Court has to make an endeavour to find out whether the information in the First Information Report indeed discloses the ingredients of such offence and the Court can accept the settlement and quash the report/charge-sheet only after the Court is of the opinion that such an offence is unnecessarily incorporated in the First Information Report/charge-sheet. From the perusal of the First Information Report and the material produced in the form of the charge-sheet, we are satisfied that the ingredients of the offence under Section 307 of the Indian Penal Code are not fulfilled. We have also gone through the injury certificate and the nature of the weapon used and the statements of the witnesses. On

consideration of over all material, we are satisfied that the injury caused to the non-applicant No.2 is not serious. Since the applicants have mutually resolved their dispute, chances of conviction are bleak. We are, therefore, satisfied that there is no impediment in quashing and setting aside the First Information Report and consequent charge-sheet filed against the applicants.

9. We, therefore, pass the following order :

The First Information Report No.229/2020 dated 14.05.2020 registered with the non-applicant no.1 - Police Station along with charge-sheet No.79/2020 dated 05.08.2020 against the applicants for the offences punishable under Sections 307, 504 read with Section 34 of the Indian Penal Code and Sections 4, 25 of the Indian Arms Act are quashed and set aside.

10. Rule is made absolute in the above terms.

JUDGE

JUDGE