

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

CRIMINAL APPLICATION (APL) NO. 730 OF 2021

1. Arun Bapurao Raut,
Aged 60 years, Occ. - Cultivator.
 2. Avinash Arun Raut,
Aged 35 years, Occ. - Cultivator.
 3. Suresh Ramdas Raut,
Aged 27 years, Occ. - Cultivator.
 4. Bajrang Suresh Bodade,
Aged 22 years, Occ. - Education.
 5. Shiva Sanjay Gawali,
Aged 19 years, Occ. - Labour.
 6. Ramesh alias Guddu Ramdas Raut,
Aged 37 years, Occ. - Labour,
No. 1 to 6 R/o. Wadad,
Tq. & Dist. Akola.
 7. Sanjay Pandurang Gawali,
Aged 53 years, Occ. - Cultivator.
 8. Chetan Sanjay Gawali,
Aged 25 years, Occ. - Cultivator,
No. 7 & 8 R/o. Rohana,
Tq. & Dist. Akola.
 9. Nandu Kashinath Shingade,
Aged 23 years, Occ. - Cultivator,
R/o. Dahihanda, Tq. & Dist. Akola.
-APPLICANTS**

... VERSUS ...

1. The State of Maharashtra,
Through Police Station Officer,
Police Station, Dahihanda,,
Tq. & District – Akola.
 2. Datta @ Ishwardas Gajanan Gawali,
Aged 29 years, Occ. : Agriculturist,
R/o. Rohana, Tq. & Dist. Akola.
-NON-APPLICANTS**

 Shri Manish Jeswani, Advocate for the Applicants.

Shri S.M. Ghodeswar, Additional Public Prosecutor for the Non-applicant No.1.

Shri V. B. Bhise, Advocate for the Non-applicant No.2.

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

DATE : 31.08.2021.

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.257/2020 dated 07.10.2020 registered with the non-applicant No.1 - Police Station against the applicants for the offences punishable under Sections 143, 147, 148, 149, 326, 325, 324, 452 read with Section 34 of the Indian Penal Code.
4. The First Information Report came to be registered against the applicants with the accusations that the applicants assaulted the non-applicant No.2 by using danger weapon such as iron pipe, axe. It is stated that the non-applicant No.2 has suffered injuries due to such assault and therefore had registered the First Information Report against the applicants.
5. It appears that the applicant No.1 herein had also lodged counter report against the non-applicant No.2 and others bearing Crime No.256/2020.

6. The applicants and the non-applicant No.2 have amicably resolved their dispute and have decided not to proceed with the criminal prosecution lodged against the applicants.

7. The non-applicant No.2 has filed affidavit dated 08.01.2021 wherein he has stated on oath that he has no objection for quashing the First Information Report against the applicants as the applicants and the non-applicant No.2 have amicably resolved their dispute.

8. We have carefully considered the allegations in the First Information Report. Though the offences mentioned in the First Information Report are serious in nature, but having gone through the allegations in the First Information Report, we find that the allegations in the First Information Report along with material produced on record and the reply filed by the non-applicant No.1 do not indicate fulfillment of essential ingredients of the offences alleged against the applicants.

9. The decision of the Hon'ble Apex Court in the case of *Narinder Singh & others Vs. State of Punjab & anr.* reported in *(2014) AIR SCW 2065* 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.

10. From the perusal of the First Information Report and the material produced in the Court, we are satisfied that the ingredients of the offences under Sections 324, 325 and 326 of the Indian Penal Code are not fulfilled. Since the applicants and the non-applicant No.2 have mutually resolved their dispute, chances of conviction are bleak.

11. The parties are present in the Court. The non-applicant No.2 has stated before the Court that he has no objection for quashing the First Information Report against the applicants.

12. In view of above, we are satisfied that there is no impediment for quashing the First Information Report against the applicants.

13. We therefore, pass following order :

The First Information Report No.257/2020 dated 07.10.2020 registered with the non-applicant No.1 - Police Station against the applicants for the offences punishable under Sections

143, 147, 148, 149, 326, 325, 324, 452 read with Section 34 of the Indian Penal Code is quashed and set aside.

14. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

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