

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

Criminal Application (APL) No.953 of 2021

1. Mahadeo @ Madhao Pralhad Malekar,
Aged about 23 years,
Occu. Education.
2. Nandkishor @ Kishor S/o Vasanta @ Pramod More,
Aged about 27 years,
Occu. Education.
3. Prem S/o Gajanan Padmane,
Aged about 27 years,
Occu. Education.
R/o Kenwad, Tq. Risod, Distt. Washim.
4. Nikhil S/o Punjaji Khandare,
Aged about 30 years,
Occu. Service.
5. Bhagwan S/o Sanjay Avtade,
Aged about 22 years,
Occu. Education.
6. Shivhankar S/o Bhaskar Gayakwad,
Aged about 25 years,
Occu. Education.
7. Kailas S/o Vasanta More,
Aged about 30 years,
Occu. Service.
8. Ganesh S/o Bhimrao Nikas,
Aged about 26 years,
Occu. Service.
9. Shankar S/o Tejrao Avdate,
Aged about 26 years,
Occu. Education.
10. Sudarshan S/o Kailas Navghare,
Aged about 26 years,
Occu. Education.

11. Nitin S/o Dattatrya Ingle,
Aged about 22 years,
Occu. Labour.
R/o Belgaon, Tq. Mehkar,
Distt. Buldhana.

All accused no.1 to 2 & 4 to 10
R/o Kalambgavhan, Tq. Risod, Dist. Washim.

12. Ramdas S/o Ramkrushna Billewar,
Aged about 44 years,
Occu. Labour.
13. Rupali D/o Ramdas Billewar,
Aged about 20 years,
Occu. Education.
14. Vishal S/o Ramdas Billewar,
Aged about 20 years,
Occu. Education.
15. Kavita W/o Ramdas Billewar,
Aged about 39 years,
Occu. Labour.
16. Umesh S/o Dashrath Billewar,
Aged about 25 years,
Occu. Labour.
17. Gajanan S/o Santosh Billewar,
Aged about 22 years,
Occu. Labour.
18. Rambhau S/o Sopan Billewar,
Aged about 40 years,
Occu. Labour.

No.12 to 18 All R/o Chandas,
Tq. Malegaon, Distt. Washim.
Mob- 9850183859.

... Applicants

Versus

State of Maharashtra,
through Police Station Officer,
Shirpur, Tq. Malegaon, Dist. Washim.

... Non-Applicant

Shri Raju Kadu, Advocate for Applicants.
Shri S.S. Doifode, APP for Non-Applicant – State.

CORAM : V.M. DESHPANDE & AMIT B. BORKAR, JJ.
DATE : 30th SEPTEMBER, 2021

Oral Judgment (Per Amit B. Borkar, J.) :

1. Heard Shri Kadu, the learned counsel for the applicants; and
Shri Doifode, the learned APP for the non-applicant- State.

2. **Rule.** Rule made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicants have jointly prayed for quashing and setting aside First Information Report No.107 of 2017 dated 23-5-2017 registered with the non-applicant – Police Station Shirpur, Tq. Malegaon, Dist. Washim and the consequent charge-sheet filed before the Special Judge, Washim for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 294, 354, 452, 323, 504 and 506 read with Section 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

3. The First Information Report came to be registered against the applicant Nos.1 to 11 with the accusations that on 23-5-2017, the applicant Nos.1 to 11 assaulted the applicant Nos.12 to 18 by means

of sword, iron pipe and wooden stick. It is alleged that the accused tried to offend the modesty of the applicant Nos.13 and 15. The Investigating Agency has carried out the investigation and filed charge-sheet against the applicant Nos.1 to 11. During the pendency of the proceedings before the learned Special Judge, the applicants have arrived at settlement and have resolved their dispute. The applicants have, therefore, filed the present application challenging the proceedings filed against the applicant Nos.1 to 11. It is stated in the application that taking into consideration the entire material available against the applicant Nos.1 to 11, the possibility of conviction is remote and bleak. It is further stated that the report came to be registered against the applicant Nos.1 to 11 due to misunderstanding, and for maintaining the cordial relations between the parties and for living their life peacefully, the applicants have decided to resolve their dispute.

4. We have carefully considered the allegations made in the First Information Report and the material produced in the charge-sheet. Though the offences alleged against the applicant Nos.1 to 11 are serious in nature, it would be profitable to refer the judgment of the Apex Court in the case of **Narinder Singh and others Vs. State of Punjab and another**, reported in **AIR 2014 SCW 2065**. The decision of the Apex Court makes it clear that the Court cannot declare to quash the First Information Report merely because it incorporates a

particular provision which is a serious offence or an offence against the Society. The Court has to make an endeavour to find out whether the First Information Report indeed discloses the ingredients of such offence and the Court can accept the statement and quash the First Information Report after the Court is of the opinion that such an offence is unnecessarily incorporated in the First Information Report.

5. Having carefully scrutinized the allegations made in the First Information Report and having gone through the material produced in the charge-sheet, we are satisfied that the ingredients of the offences registered against the applicant Nos.1 to 11 are not fulfilled, even if the allegations made in the First Information Report and the material produced in the chargesheet are taken into consideration. We are, therefore, satisfied that continuation of the present proceedings against the non-applicant Nos.1 to 11 would amount to abuse of process of Court.

6. On the last occasion, when this application was called out, this Court directed the learned APP to take instructions as to whether there are criminal antecedents against the applicant Nos.1 to 11. Today, the learned APP states that there are no criminal antecedents to the discredit of the applicant Nos.1 to 11. We have also carefully scrutinized the injury certificate. On perusal of the injury certificate, we are satisfied that the ingredients of the offence punishable under

Section 307 of the Indian penal Code are not fulfilled, taking into consideration the injury caused to the victims.

7. We, therefore, pass the following order :

First Information Report No.107 of 2017 dated 23-5-2017 registered by the non-applicant - Police Station Shirpur, Tq. Malegaon, Dist. Washim along with the consequent proceedings in Juvenile Case No.52 of 2018 for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 294, 354, 452, 323, 504 and 506 read with Section 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012, against the applicant Nos.1 to 11, are quashed and set aside.

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

(AMIT B. BORKAR, J.)

(V.M. DESHPANDE, J.)