

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

CRIMINAL APPLICATION (APL) NO. 1227 OF 2019

1. Narendra S/o. Murlidhar Sharma,
Aged 57 Years, Occu. : Agriculturist,
2. Laxmikant @ Lucky S/o. Narendra Sharma,
Aged 26 Years, Occu. : Agriculturist,
3. Both R/o. Durga Apartment, Flat No.A-3,
Nityanand Nagar, Gourakshan Road,
Akola, Tq. & Dist.- Akola.APPLICANTS

... **VERSUS** ...

1. State of Maharashtra
Through Police Station Officer,
Police Station, Barshitakli,
Tq. - Barshitakli, Dist.- Akola.
2. Pawan @ Sandip S/o. Omprakash Sharma,
Aged 35 Years, Occ.- Agriculturist,
R/o. Yeranda, Tq. Barshitakli,
Dist.- Akola.NON-APPLICANTS

Shri D. I. Jain, Advocate for the Applicants.

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

Shri N. R. Tekade, Advocate for 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.146/2018 dated 12.04.2018 registered with the non-applicant no.1 - Police Station for the offences punishable under Sections 307, 504 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 on 09.04.2018, the applicants assaulted brother of informant on head by using iron rod with an intention to kill him. It is also alleged that the non-applicant No.2 along with his father and driver tried to intervene in the matter, but the applicants also assaulted the non-applicant No.2 and his father.

5. Since there were cross-complaints filed against the applicants and the non-applicant No.2, both the parties have mutually resolved their disputes.

6. During pendency of the proceedings, the non-applicant No.2 has communicated to the Superintendent of Police, Akola stating that since the First Information Report came to be registered due to the dispute of the property, the family members of the applicants and the non-applicant No.2 have mutually resolved their dispute and have decided to withdraw the

complaints against each other. The applicants have therefore, filed present application for setting aside the First Information Report.

7. 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. Insofar as the offence under Section 307 of the Indian Penal Code is concerned, though it is a 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 Court, 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 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 brother of 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 filed against the applicants.

8. We, therefore, pass the following order :

The First Information Report No.146/2018 dated 12.04.2018 registered with the non-applicant no.1 - Police Station against the applicants for the offences punishable under Sections 307, 504 read with Section 34 of the Indian Penal Code is quashed and set aside.

9. Rule is made absolute in the above terms.

JUDGE

JUDGE