

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

942 CRIMINAL APPLICATION NO. 401 OF 2022

BHIMRAO S/O SAMRAT KAMBLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....

Advocate for Applicants : Mr. Madhukar M. Parghane
APP for Respondent No.1-State : Mrs. P. V. Diggikar
Advocate for Respondent No.2 : Mr. Gajanan B. Kingare

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WITH
CRIMINAL APPLICATION NO. 402 OF 2022

SURESH S/O PANDURANG KAMBLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....

Advocate for Applicants : Mr. Gajanan B. Kingare
APP for Respondent No.1-State : Mrs. P. V. Diggikar
Advocate for Respondent No.2 : Mr. Madhukar M. Parghane

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 08th APRIL, 2022**

PER COURT:-

1. Learned counsel for the applicants in criminal application no. 401 of 2022, on instructions, seeks leave to withdraw the application of applicant nos. 1 to 4.

2. Leave granted. Criminal application no. 401 of 2022 is dismissed as withdrawn to the extent of applicant nos. 1) Bhimrao s/o Samrat Kamble, 2) Samrat s/o Pandurang Kamble, 3) Mahendra s/o Samrat Kamble and 4) Arjaent s/o Samrat Kamble, who are original accused nos. 1 to 4 respectively, in connection with crime no. 13 of 2021 (Sessions Case No. 70 of 2021).

3. Heard finally with consent at admission stage.

4. Learned counsel appearing for the applicants in respective applications submit that the parties have arrived at an amicable settlement. Learned counsel submit that on the basis of the complaint lodged by Pranjal s/o Suresh Kamble, crime no. 13 of 2021, which is subject matter of criminal application no. 401 of 2022, came to be registered for the offence punishable under Sections 307, 324, 341, 143, 144, 146, 147, 148, 149, 504, 506 of IPC and Sections 4 and 25 of the Arms Act, 1959. So far as crime no. 231 of 2019 bearing RCC No. 388 of 2021 is concerned, the same is registered on the basis of the complaint lodged by Samrat s/o Pandurang Kamble (original accused in crime no. 13 of 2021) for the offence punishable under Sections 307, 143, 144, 146, 147, 148, 149, 504 of IPC. Learned counsel appearing for the parties in both matters submit that as per

the advice of the relatives and the well wishers, the parties have arrived at an amicable settlement. They have also settled their dispute about the agricultural land amicably and decided not to interfere in the possession of each other's land and to maintain cordial relations with each other.

5. Learned counsel appearing for the applicants in criminal application no. 401 of 2022 submits that the allegations have been made mainly against co-accused Bhimrao, Samrat, Mahendra and Arjaent and they are not before the Court. Applicants Vandana, Pooja, Shalini and Ashwini are the women applicants with whom respondent no.2- Pranjal Suresh Kamble has amicably settled the matter. Learned counsel submits that informant Pranjal and the injured eye witness Suresh Pandurang Kamble both have filed their affidavit-in-reply. They are not interested in prosecuting the complaint in view of the settlement arrived at between them.

Learned counsel further submits that respondent no.2 in criminal application no. 402 of 2022 i.e. injured Samrat s/o Pandurang Kamble has also filed his affidavit-in-reply with the same contention that on the advice of the relatives and well wishers, the parties have amicably settled their agricultural dispute and decided

not to interfere in the possession of each other's land respectively, and to maintain cordial relations with each other. Learned counsel submits that respondent no.2-informant Samrat s/o Pandurang Kamble, though has sustained grievous injuries, however, those are not on vital part of the body.

6. We have also heard learned APP for the respondent-State. Learned APP submits that so far as respondent no.2 in criminal application no. 401 of 2022 i.e. Pranjal Suresh Kamble and the injured witness Suresh Pandurang Kamble are concerned, they have filed affidavits, however, injured Suresh Pandurang Kamble has sustained incise wound on the right ankle and contused lacerated wound on middle third of right leg. Both the injuries are grievous in nature. He was referred to higher center. Learned APP submits that so far as respondent no.2 in criminal application no. 402 of 2022, namely, Samrat Pandurang Kamble is concerned, he has sustained grievous injuries on various parts of the body. Learned APP submits that appropriate orders may be passed.

7. We have carefully gone through the affidavits-in-reply filed by respondent no.2 in respective matters and also the injured witness. So far as criminal application no. 401 of 2022 is concerned, as per the

medico-legal/injury certificate, witness Suresh Pandurang Kamble has sustained incise wound and contused lacerated wound on right middle third leg and both the injuries are grievous in nature. The remaining injuries i.e. injury nos. 3, 4 and 5 are simple injuries on the portion of leg, arm and forearm respectively.

So far as criminal application no. 402 of 2022 is concerned, as per the medico-legal/injury certificate of respondent no.2-informant Samrat, he has sustained six injuries and out of the same, four injuries are grievous but none of the injuries sustained by him are on the vital part of the body. Injury no.3 is fracture on the dorsal aspect, injury no.4 is fracture on right ulna, injury no.5 is also fracture on right tibia and injury no.6 is fracture contusion on bimalleolar. The other two injuries, which are in the form of contused lacerated wounds, are simple in nature and those are also on the portion of left leg and right elbow, respectively.

8. It appears that the parties have arrived at an amicable settlement due to intervention and advice of the relatives and well wishers. They have settled their dispute in respect of the agricultural land and further agreed not to interfere in the possession of each other and to maintain cordial relations.

9. In the case of ***Narinder Singh and others v. State of Punjab and others***, reported in MANU/SC/0235/2014 ; (2014) 6 SCC 466, in para 31, the Supreme Court has laid down the principles for consideration of the High Court in giving adequate treatment to the settlement between the parties and for exercising its power under Section 482 of the Criminal Procedure Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Guideline no. (VI) is relevant for the present consideration and the same is reproduced herein below:

“(VI) Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is

inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

The Supreme Court in the above cited case, in terms of clause (VI), has held that the offences punishable under Section 307 of IPC would fall in the category of heinous and serious offences and therefore, generally treated as crime against the society and not against the individual alone. However, the Supreme Court has further observed that the High Court would not rest its decision merely because there is a mention of Section 307 of IPC in the FIR and it would be open to the High Court to examine as to whether incorporation of Section 307 of IPC is there for the sake of it or the

prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 of IPC.

10. In both the matters before us, though there is incorporation of Section 307 of IPC in connection with the crimes and the cases are now pending before the court, however, considering the nature of injuries, the parts of body on which the injuries have been inflicted and the nature of weapon allegedly used, we do not think that there is supporting evidence to attract the charge under Section 307 of IPC. In view of the same, we are inclined to accept the settlement. However, both the sides are required to be saddled with some costs. Considering the affidavits filed by respective respondent no.2 in both the applications so also the injured person, we are of the opinion that the parties have arrived at amicable settlement voluntarily due to intervention of the relatives and the well wishers. Thus, considering the entire aspect of the case and in terms of the ratio laid down by the Supreme Court in the above cited case, we proceed to pass the following order:

ORDER

I. Criminal application no. 401 of 2022 is allowed in terms of prayer clause "B".

II. Criminal application no. 402 of 2022 is allowed in terms of prayer clause “B”.

III. The applicants in criminal application no. 401 of 2022 and respondent no.2 Pranjali s/o Suresh Kamble and further, the applicants in criminal application no. 402 of 2022 and respondent no.2 Samrat s/o Pandurang Kamble to pay costs of Rs.10,000/- (rupees ten thousand only) in total, before this Court within one month from the date of this order and on deposit of the said amount, the same shall be transferred to the High Court Legal Services Sub-Committee, Aurangabad.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)