

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

977 CRIMINAL APPLICATION NO.2243 OF 2021

ARUN CHAVDAS KOLI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Mr. M.B. Sandanshiv
APP for Respondent-State: Mr. R.V. Dasalkar
Advocate for Respondent No.2 : Mr. J.R. Patil
.....

AND
CRIMINAL APPLICATION NO.2246 OF 2021

ASIF SHAIKH HAKIM MANIYAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Mr. J. R. Patil
APP for Respondent-State: Mr. R.V. Dasalkar
Advocate for Respondent No.2 : Mr. M.B. Sandanshiv
.....

**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 12th APRIL, 2022**

PER COURT:-

1. Leave to add R.C.C. number in the prayer clause in criminal application No. 2243 of 2021.
2. By consent of the parties, heard finally at admission stage.
3. The applicants in criminal application No. 2243 of 2021 are seeking quashing of F.I.R. bearing Crime No. 104 of 2021 registered with Chopda (Rural) police Station, Tq. Chopda,

district Jalgaon for the offences punishable under sections 307, 452, 337, 323, 504, 427 r.w. 34 of I.P.C. and also seeking quashing of the proceeding bearing R.C.C. No. 177 of 2021 pending before the J.M.F.C. Chopda, on the ground that the parties have arrived at amicable settlement. Learned counsel for the applicants submits that in the charge sheet charge Section 307 of I.P.C. has been deleted and Section 324 is substituted.

4. So far as the criminal application No. 2246 of 2021 is concerned, the applicants accused in the said application are seeking quashing of F.I.R. No. 108 of 2021 registered with the same police station i.e. Chopda (Rural) police station, lodged by applicant No.2 Mangla in criminal application No. 2243 of 2021 for the offences punishable under Sections 324, 504, 506, 510 r.w. 34 of I.P.C.

5. Learned counsel for the parties in both the matters submit that the criminal application Nos. 2243 of 2021 and 2246 of 2021 have been filed for quashing of the cases filed against each other. So far as the crime No. 104 of 2021 is concerned the same is subject matter of criminal application No. 2243 of 2021 and so far as crime No. 108 of 2021 is concerned the same is subject matter of criminal application No. 2246 of 2021. Learned counsel for both the parties submit that the parties

have arrived at amicable settlement for the reasons that they are residing in the same village.

6. Learned counsel appearing for the parties submit that due to misunderstanding, the parties have filed complaints against each other. There are no antecedents. Furthermore, respondent No.2 in criminal application No. 2243 of 2021 viz. Asif Shaikh and Minajbee are injured eye witnesses and Master Amin, who is minor has also sustained the injuries in the alleged incident. They have sustained simple injuries. Learned counsel for the parties submit that the original complainants have filed their respective consent affidavits in both the matters.

7. We have also heard learned A.P.P. for the respondent State in both the matters. Learned A.P.P. submits that there are no antecedents except applicant No.1 Arun Koli in criminal application No. 2243 of 2021. However, learned A.P.P. has fairly accepted that only prohibition cases have been registered against said applicant Arun Koli and those cases have been registered way back in the years 2015, 2017 and 2018. Learned A.P.P. has also fairly accepted that respondent No.2 in criminal application No. 2243 of 2021 and the injured witness have sustained only simple injuries and that is why the investigating officer has filed the charge sheet under section 324 of I.P.C. by deleting the charge under Section 307 of I.P.C.

Learned A.P.P. submits that so far as the criminal application No. 2246 of 2021 is concerned, respondent No.2 is the only injured witness who has sustained simple injuries.

8. In the case of **Narinder Singh and others v. State of Punjab and others**, reported in (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.”

9. In the instant case, in criminal application No. 2243 of 2021, respondent No.2 and two more injured persons have sustained simple injuries. So far as Asif Shaikh is concerned, he has merely sustained abrasion i.e. scratch mark on the neck, which is simple in nature. Further, injured witness Minajbee has sustained contusion on left arm, blunt trauma on chest and abrasion on right toe. All injuries are simple in nature caused by hard and blunt object. Injured witness master Amin has sustained contusion on left arm. The said injury is simple in nature and caused by hard and blunt object.

10. So far as criminal application No. 2246 of 2021 is concerned, respondent No.2 Mangala has sustained only two injuries those are (i) multiple superficial incised wounds over right forearm and (ii) superficial incised wounds on left forearm. Both the injuries are simple in nature.

11. 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, 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. In both the cases even though initially charge has been levelled under section 307 of I.P.C. however, considering the nature of injuries so far as F.I.R. which is subject matter of criminal application No. 2243 of 2021 is concerned, charge under Section 324 of I.P.C. is substituted. So far as F.I.R. which is subject matter of criminal application No. 2246 of 2021 is concerned crime is registered for the offence punishable under section 324 of I.P.C. Even considering the nature of injuries sustained by witness Mangala, we do not think that the offence under Section 324 of I.P.C. stands attracted.

12. In view of the same 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. 2243 of 2021 is allowed in terms prayer clauses "B" and "B-B" and Criminal application No. 2246 of 2021 is allowed in terms of prayer clause "B" subject to payment of costs of Rs.1,000/- (Rupees one thousand) in each matter, to be deposited by the applicants in both the applications before this Court.
- II. After deposit of the said amount, the same shall be transferred to the Library, Advocates' Association of Bombay High court, Bench at Aurangabad.
- III. Both the criminal applications are accordingly disposed of.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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