

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

CRIMINAL APPLICATION (APL) NO.153/2019

Narayan s/o Madhao Gawande and ors

..vs..0

**The State of Mah., thr.PSO PS Umarched, Tahsil Umarched, District Yavatmal
and anr**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
None for Applicants.
None for Non-applicant No.2.
Shri T.A.Mirza, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE & G.A.SANAP, JJ.
DATED : JANUARY 04, 2022

1. Even on second call, learned counsel Shri A.Y.Sharma for applicants and learned counsel Shri V.R.Thote for non-applicant No.2 chose not to remain present for hearing of this application.
2. We have heard learned Additional Public Prosecutor Shri T.A.Mirza for the State. Also, perused reply filed on behalf of the State.
3. This application under Section 482 of the Code of Criminal Procedure is filed for following prayers:

“(i) quash the FIR No.283/2018 dated 02/06/2018 registered with Police Station, Umarched, District Yavatmal for the offence punishable under section 143, 147, 149, 326, 307, 504, and 506 of the Indian Penal Code.

(ii) till the final disposal of the present

application directed the respondent No.1 not to file charge sheet in the crime No.283/2018 grant ad-interim relief in terms of prayer clause.”

4. In paragraph No.4 of the application, it is stated that applicants, who are accused, and non-applicant No.2, who is complainant, have settled their dispute amicably and, therefore, the First Information Report be quashed.

5. In view of the report lodged by non-applicant No.2 with Umarkhed Police Station, district Yavatmal, a crime was registered against applicants vide Crime No.283/2018 for offences punishable Sections 143, 147, 149, 326, 504, and 506 of the Indian Penal code. Subsequently, offence was converted into offence punishable under Section 307 of the Indian Penal Code.

6. Learned Additional Public Prosecutor for the State, invites our attention to authoritative pronouncement of the Honourable Apex Court in Criminal Appeal No.349/2019 (The State of Madhya Pradesh vs. Laxmi Narayan and ors) decided on 5.3.2019 which is placed on record at **Annexure-R-I** along with reply. In paragraph No.13 of the case cited *supra*, the Honourable Apex Court has given guidelines. Guideline No.(iv) reads as under:

“Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the

offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC 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 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. 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. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove.”

7. In view of the aforesaid, it is crystal clear that offence punishable under Section 307 of the Indian Penal Code cannot be quashed in exercise of power under Section 482 of the Code of Criminal Procedure on the count that parties have resolved their dispute amongst themselves.

8. In this view of the matter, prayers made for

quashment of the First Information Report on the ground of amicable settlement cannot be accepted and need to be rejected. Consequently, the application is rejected and disposed of.

JUDGE

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JUDGE