

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

CRIMINAL APPLICATION (APL) NO.117/2022

Shri Narendra s/o Pundlikrao Atkar and anr

..VS..

State of Mah., thr.PS Hudkeshwar, District Nagpur

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

Court's or Judge's Order

.....
Shri G.N.Shinde, Counsel for Applicants.

Mrs.M.A.Barabde, Addl.P.P. for the State.

**CORAM : V.M.DESHPANDE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATED : JANUARY 27, 2022

1. Heard learned counsel Shri G.N.Shinde for applicants extensively.
2. Applicant No.1 is first informant and applicant No.2 is accused in Crime No.563/2021 registered with Hudkeshwar Police Station, Nagpur for offences punishable under Sections 307, 504, and 506 of the Indian Penal Code. Applicants approached to this Court making a joint prayer for quashing of the said First Information Report, consequent filing of chargesheet, and Sessions Trial No.673/2021 on the ground that incident in question was never occurred and ingredients of Section 307 of the Indian Penal cannot be attracted in given set of facts as there was no injury to victim.
3. Merely because the complainant and the accused are coming before the Court and making a joint request that they be allowed to compound offences, which is otherwise not compoundable offence, and making a joint prayer to quash criminal proceedings, the Court cannot remain mute spectator and accept their contentions. The Court being custodial of law has to independently scrutinize and evaluate material which is placed along with final report by Investigating Officer after completion of

investigation.

4. According to the First Information Report, which is filed by applicant No.1, on 30.8.2021, when he along with his friend one Devendra and applicant No.1's granddaughter (victim) aged about 12 years, the daughter of applicant No.2/accused, were chit-chatting, after their dinner, applicant No.2 came to house under the influence of liquor and he extended threats to the complainant that he will kill him and assaulted. Thereafter, he started abusing his father-in-law on phone. Thereafter, as per the First Information Report, the complainant tried to pacify the accused. It is further stated in the First Information Report that at 10:00 p.m., when victim went to bed, that time the complainant heard cries of his granddaughter. Resultantly, he along with his friend visited bedroom of applicant No.2. That time, they found that the granddaughter was weeping and she was vomiting. The victim was immediately taken to a doctor.

5. Applicant No.2, thereafter, was arrested immediately. He was taken to hospital for his medical examination and doctor found that applicant No.2 has consumed liquor. During course of investigation, a statement of the victim was recorded. Perusal of her statement shows that in unequivocal words she is making serious allegations against her father that he tried to kill her. Even, statement of the complainant recorded under Section 161 of the Code of Criminal Procedure also reiterates the First Information Report statement. Devendra, the person who was present inside house of the complainant and the accused, supports statements of the victim as well as applicant No.1.

6. In view of the aforesaid material on record, truthfulness of otherwise will be tested only during course of trial. In our view, this is not a case wherein the prayer made by applicants jointly should be accepted. In our view, this is a fit case

wherein the prosecution can be allowed to conduct trial against applicants.

7. No case is made out exercising inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure. The criminal application is **rejected** and disposed of accordingly.

JUDGE

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JUDGE