

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.831 OF 2022

Dr. Vijay s/o Devichand Munot ... **APPLICANT**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. A.D. Ostwal, Advocate for applicant
Mrs. V.N. Patil Jadhav, A.P.P. for State
.....

WITH

CRIMINAL WRIT PETITION NO.275 OF 2022

Manoj Devichand Munot ... **PETITIONER**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. Y.V. Kakade, Advocate holding for
Mr. N.V. Gaware, Advocate for petitioner
Mrs. V.N. Patil Jadhav, A.P.P. for State
Mr. A.D. Ostwal, Advocate for respondent No.2.
.....

**CORAM : R.G. AVACHAT AND
KISHORE C. SANT, JJ.**

DATE : 31st OCTOBER, 2023

ORDER :

Heard. Since both the Criminal Application and Criminal Writ Petition are arising out of the cross-complaints, both are taken up together.

2. In Criminal Application No.831/2022, a prayer is made to quash and set aside the F.I.R. bearing C.R. No.0787/2021, registered with Shrigonda Police Station, District Ahmednagar for the offence punishable under Sections 307, 504, 506 of the Indian Penal Code and the consequential charge sheet bearing No.61/2022 and the Sessions Case No.28/2022, pending before the learned Additional Sessions Judge, Shrigonda, District Ahmednagar. The said F.I.R. is lodged by the respondent no.2 who happens to be brother of the applicant.

3. In Criminal Writ Petition No.275/2022, the petitioner, who is respondent No.3 in Criminal Application No.831/2022, has approached this Court for quashing of the F.I.R. bearing Crime No.804/2021, registered with Shrigonda Police Station, District Ahmednagar for the offence punishable under Sections 307, 324, 504 and 506 of the Indian Penal Code and the consequential charge sheet and criminal proceedings bearing Sessions case No.30/2022.

4. Both the parties are real brothers. It is seen from the F.I.R. that, there is dispute over property between both the brothers and on that, the relations are strained and because of the same, the alleged incidents have taken place, the complaints were lodged.

5. Today both the parties are present before this Court. They have submitted that, because of the intervention of the elders in the family and also to have a cordial relations, they have decided to put an end to the disputes and to withdraw the complaints against each other. However, since the offence under Section 307 of the Indian Penal Code is not compoundable, the offences cannot be compounded and, therefore, now these applications are being filed.

6. Since the offence under Section 307 of the Indian Penal Code is not compoundable, this Court has taken up the matter for quashing. This Court ascertained from the parties who are present before the Court that they want to put an end to the dispute and have decided not to prosecute each other.

7. The learned A.P.P., however, opposes the application and the writ petition strongly, stating that there is serious offence alleged against the applicant and petitioner under Section 307 of the Indian Penal Code, the offence is always against the society and not against a particular individual. This Court is conscious of the fact that, offence under Section 307 of the Indian Penal Code is not compoundable, and the Court should be slow in quashing such offences, as being offence against the society. The Hon'ble Apex

Court, in case of **Narinder Singh & ors. Vs. State of Punjab & anr. (2014) 6 SCC 466**, has held that, when the offence is not compoundable, the High Court has ample powers to quash the complaints. In the case of **Nikhil Merchant Vs. C.B.I. & anr. (2008) 9 SCC 677**, the Hon'ble Apex Court has held that, when there is settlement between the parties, the prosecuting agency have no role to object such compromise where the parties have settled the dispute.

8. Considering all above, since the parties are real brothers, it would be in the interest of justice to quash the complaint filed by the parties against each other. In view of the same, following order is passed :-

ORDER

(i) Criminal Application No.831/2022 is allowed in terms of prayer clauses (b), (h) and (i).

(ii) Criminal Writ Petition No.275/2022 is allowed in terms of prayer clauses (B) and (15-BB).

9. With this, the Criminal Application and the Criminal Writ Petition stand disposed off. Since the investigation machinery,

prosecuting agency are put in motion and they have spent some time, it would be in the interest of justice to direct each of the applicant and the petitioner to deposit Rs.50,000/- (Rupees fifty thousand) each towards costs, with the High Court Legal Services Authority, Aurangabad within two weeks from today. Deposit of costs as above is condition precedent for this order.

10. List the matters for compliance of this order on 29th November 2023.

(KISHORE C. SANT, J.)

(R.G. AVACHAT, J.)

fmp/-