

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 909 OF 2023

1. Shaikh Naser Shaikh Sattar
 2. Shaikh Nisar Shaikh Sattar
 3. Shaikh Ansar Shaikh Sattar
 4. Shaikh Sattar Shaikh Sardar
 5. Arshad Patel Sattar Patel
 6. Liyakat Sattar Shaikh
 7. Abdul Gani Abdul Majid
- ...Petitioners

versus

1. The State of Maharashtra
 2. Shaikh Tayyab Shaikh Hanif
 3. Hanif Rahim Hanif Shaikh Naikwadi
- ...Respondents

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Mr. Yuvraj V. Kakade, advocate for the petitioners
Mr. S. N. Morampalle, A.P.P. for respondent No.1
Mr. J. M. Murkute, advocate for respondent Nos. 2 and 3.

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 1st SEPTEMBER, 2023.**

O R D E R (PER SANJAY A. DESHMUKH J.) :-

1. Heard the learned counsel for the respective parties.
2. This petition is filed for quashment of F.I.R. No 471 of 2022 registered with CIDCO police station, Aurangabad, for the offences punishable under Sections 307, 326, 120-B, 143, 147, 148, 149, 201 of I.P.C. and under Section 135 of Maharashtra Police Act and the consequential charge sheet No 291 of 2022 filed in the Court of Judicial Magistrate, First Class, Aurangabad.

3. Respondent No.2/informant was assaulted by the petitioners with the weapons like sword and iron rod. He sustained injuries to the back side of his head. Therefore, he lodged the report on 27.9.2022.

4. During pendency of this writ petition, the matter is amicably settled between the parties and the informant as well as the injured Abdul Gani Shaikh filed their separate affidavits, on their own, stating that they have settled their civil dispute and therefore, they have no grudge against each other. In the said affidavits, it is averred that the elder persons from the family as well as the community have tried to settle the dispute so that the dispute between the petitioners, respondent/victim and respondent/informant can be resolved. It has been further contended that the petitioners have executed the agreement that they will not claim the space which is the subject matter of the dispute. Thus, respondent Nos. 2 and 3 have contended that their grievance has been redressed.

4. The learned A.P.P. for respondent No.1 State objected for compromise on the ground that the offence punishable under Section 307 of I.P.C. is not compoundable and therefore, the power under Section 482 of Cr.P.C. cannot be exercised to quash the charge sheet.

5. The learned counsel for the petitioners placed reliance on the judgment of Delhi High Court in the case of ***Mohd. Umair @ Umer vs. the State (Govt. NCT of Delhi) and Others, (Criminal M.C. No. 674 of 2021)*** whereby the Delhi High Court, relying upon the judgment of the Hon'ble Supreme Court, in the case of ***Gian Singh vs. State of Punjab, reported in (2012) 10 SCC 303*** as well as other judgments, has quashed the proceedings under Section 307 of I.P.C..

6. In view of the affidavits filed by the respondent/informant and respondent/victim as well as the ratio laid down in the aforesaid judgment by the Delhi High Court and in the interest of justice, we are inclined to allow the writ petition. The writ petition is therefore, allowed in terms of prayer clause "B" and disposed of, on the condition that the petitioners to deposit an amount of Rs.4,00,000/- (Four lacs only) in this court within a period of four weeks from today.

7. On deposit of the said amount of Rs.4,00,000/-, the same shall be disbursed in the following manner:-

- (i) An amount of Rs.2,00,000/- (Rupees Two lacs) be paid to the respondent/victim by account payee cheque. The respondent/victim shall invest the said amount of Rs.2,00,000/- in a fixed deposit, minimum period of two years and produce the receipt of fixed deposit on the next date.

- (ii) An amount of Rs.50,000/- be paid to office of the Government Pleader for Library and its infrastructure. The bank account details of the same are as under:-

Name : Establishment Officer, Office of
Government
Pleader, High Court, Aurangabad.
A/c. No. : 62002338300
Bank : State Bank of India
Branch : High Court, Aurangabad
IFSC : SBIN0020997

- (iii) An amount of Rs.50,000/- be paid to Library/E-Library, Advocates' Association of Bombay High Court, Bench at Aurangabad.

- (iv) An amount of Rs.50,000/- be paid to the NAAM Foundation, which is working for prevention of suicidal death of farmers in Maharashtra State. The account details of the NAAM Foundation, are as under:-

Name of the Bank : State Bank of India
Branch : (07339) University Road, Pune
Maharashtra
Account No. : 35226127148
IFSC Code : SBIN0007339
Account type : Current Account

- (v) An amount of Rs.50,000/- be paid to M/s. Missionaries of Charity, Aurangabad. The account details of the same are as under:-

Name of the Bank	:	South Indian Bank
Branch	:	Next to St. Francis DE Sales School, Aurangabad, Maharashtra
Account No.	:	0519053000004961
IFSC Code	:	SIBL0000519
Account type	:	S.B. Privilege card account

8 List the matter on 05.10.2023 for compliance.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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