



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1030 OF 2023

Shivaji Bhanudas Kedar

.... Applicant

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Ishwar K. Wagh for the Applicant.

Mr. Ajay Patil, APP for the State.

Ms. Pallavi N. Patil for Respondent No.2.

**CORAM: SMT. ANUJA PRABHUDESSAI AND
N.R. BORKAR, JJ.**

DATED : 26th SEPTEMBER, 2023.

P. C. :-

. This is an application under section 482 of Cr.PC. to quash the criminal proceedings viz. Sessions Case No.1464/2022 pending on the file of learned Sessions Judge, Pune arising from C.R.No.559/2022 registered with Shirur Police Station, Pune Rural for offences punishable under sections 307, 323, 504, 506 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by the Respondent No.2. The facts narrated in the FIR prima facie indicate that the Applicant and the Respondent No.2 both employed at State Transport Corporation, Shirur were in love with each other for several

years. The Respondent No.2 claims that the Applicant refused to marry her. Hence, she severed the relationship and married another person. Following her marriage, the Applicant constantly abused, threatened and assaulted her and her husband. She had lodged complaint against him in respect of such past incidents.

3. On 12/08/2022, the Applicant entered the bus on which Respondent No.2 was on duty and threatened her to withdraw the cases lodged against him. She claims that the Applicant rushed towards her with a knife, threatening to commit her murder. The knife slipped from his hand. He then tried to strangle her and assaulted her with an iron rod. The driver of the bus intervened and told Respondent No.2 to get down from the bus. Even as she was leaving, the Applicant abused and threatened her. On the basis of the statement of the Respondent No.2, the aforesaid crime came to be registered.

4. Learned counsel for the Applicant and the Respondent No.2 state that parties have now settled the dispute amicably. They have placed on record the affidavit filed by the Respondent No.2 wherein she has stated that they have now resolved the dispute amicably and want to maintain good and harmonious relationship with each other.

Respondent No.2 has given her no objection to quash the criminal proceedings. The Applicant has also filed an undertaking that he will maintain good relationship with the Respondent No.2, that he will not hold any grudge against Respondent No.2 and shall maintain peace and harmony. The Applicant and the Respondent No.2 are present in the Court. They have confirmed the statements made in the affidavit as well as the undertaking given before the Court. They state that they want to lead their life in peaceful and harmonious manner without holding any grudge against each other.

5. In *Narinder Singh Vs. State of Punjab, 2014 AIR SCW 2065*, while considering the question whether the crime registered under Section 307 of the IPC could be quashed with consent, the Apex Court has reiterated that the offences of serious and heinous nature or the offences against the society cannot be quashed merely on the basis of compromise between the parties. Nevertheless, the decision of the Court cannot be based solely on the Section mentioned in the FIR or the charge framed under the provision. The Apex Court emphasized that it is open to the High Court to examine whether incorporation of such section is for the sake of it or whether the prosecution has collected sufficient material, which if proved, would lead to proving the

charge. On the basis of the prima facie analysis, the High Court can examine whether there is 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. It is further held that while deciding whether to exercise its power under section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is held that 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.

6. It is thus well settled that the powers under Section 482 of Cr.P.C. or Article 226 of the Constitution of India cannot be exercised to quash the proceedings involving serious or heinous offences, or offences against society merely on the basis of the settlement between the parties. Yet the Court cannot and should not hesitate to exercise such

powers when uncontroverted allegations in the FIR and the other material collected in the course of the investigation does not disclose cognizable offence, notwithstanding the sections mentioned in the FIR or in the charge. It is therefore necessary to consider the factual matrix of the case and ascertain whether the allegations in the FIR and the other records, taken as a whole, disclose the basic ingredients of the offence.

7. In the instant case, the Respondent No.2 had alleged that the Applicant rushed towards her with a knife but the knife fell off his hand. He then tried to strangle her and tried to assault her with an iron rod. The medical evidence reveals that the Respondent No.2 had not sustained any injury on the vital parts of the body. The statement of the driver indicates that the Respondent No.2 and the Applicant were fighting with each other. The statement of the driver does not indicate that the Applicant had inflicted any injury on the Respondent No.2.

8. We are cognizant of the well-settled proposition that life threatening injury is not a *sine qua non* for the offence under section 307 IPC. The essential ingredients of section 307 IPC are *mens rea* and

actus reus. The intention can be gathered from the nature of the weapon used, the part of the body and the nature of the injury inflicted, severity of the blows inflicted, etc. In the instant case, the Applicant and the Respondent No.2 were in love with each other. They fell apart and the Respondent No.2 married another person. The Applicant, a jilted lover has been harassing the Respondent No.2. He did not have any intention to cause death of the Respondent No.2 as it is evident from the records that the Respondent No.2 had not sustained an injury on any vital part of the body. The statement of the driver also does not indicate that the Applicant had inflicted any injury on the Respondent No.2. Hence, in our view, prima facie the offence under section 307 IPC is not made out.

9. Considering the fact that the parties have now settled the dispute amicably and that Respondent No.2 has given her consent to quash the proceedings and the Applicant has made a statement that he would not interfere with the Respondent No.2 in any manner, in our considered view, no useful purpose will be served in continuing the proceedings. Hence, this is a fit case to exercise powers under section 482 of Cr.P.C. to secure the ends of justice.

10. Under the circumstances, the Application is allowed. The Sessions Case No.1464 of 2022 pending on the file of learned Sessions Court, Pune arising from C.R.No.559/2022 registered with Shirur Police Station stands quashed subject to payment of costs of Rs.25,000/- payable by the Applicant to the Tata Memorial Hospital, Mumbai within a period of two weeks from the date the order is uploaded. The Applicant is put to notice that in the event he commits breach of any of the undertaking, Respondent No.2 shall be at liberty to revive the complaint.

11. Application stands disposed of.

12. Stand over to **10/10/2023** for compliance.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)