

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

CRIMINAL APPLICATION (APL) NO. 624 OF 2022

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| <p>1. Kishor s/o Gajanan Jorgewar
Aged about 52 years,
Occ.: Businessman, Political and Social
Activists,
R/o. Kotwali Nagar, Chandrapur,
Tq. & Dist. Chandrapur.</p> <p>2. Rashid Khan Majhar Hussain
Aged 34 years, Occ.: Service,
R/o. Jatpura Gate, Near Chandak Medical,
Tq. & Dist. Chandrapur.</p> <p>3. Balram s/o Premdas Dodani
Aged 59 years, Occ. Business,
R/o. Shivaji Nagar, Chandrapur,
Tq. & Dist. Chandrapur.</p> <p>4. Sandip s/o Pundalik Kashti
Aged 39 years, Occ.: Business,
R/o. Jagganathbaba Nagar,
Chandrapur, Tq. & Dist. Chandrapur.</p> <p>5. Kalakar s/o Satya Mallarap
Aged 31 years, Occ.: Business,
R/o. Lalpeth Colliery No.1,
Chandrapur, Tq. & Dist. Chandrapur.</p> | <p style="font-size: 4em;">}</p> | <p>... Applicants</p> |
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Versus

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| <p>1. The State of Maharashtra,
Through Police Station Officer,
Police Station Ram Nagar,
Chandrapur, Tq. & Dist. Chandrapur.</p> <p>2. Santosh s/o Vasant Kakde
Aged about 40 years, Occ.: Service,
R/o. Bhiwapur Ward, Chandrapur,
Tq. & Dist. Chandrapur.</p> | <p style="font-size: 4em;">}</p> | <p>...Non-applicants</p> |
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Mr. A.D. Hazare, Advocate for applicants.

Mr. N.R. Rode, APP for non-applicant No.1.

Mr. A.S. Ambatkar, Advocate for non-applicant No.2.

**CORAM : VINAY JOSHI, AND
BHARAT P. DESHPANDE, JJ.**

DATED : 20.04.2023.

ORAL JUDGMENT : (PER: Vinay Joshi, J.)

. **Admit.** Heard finally by the consent of the learned counsel for the respective parties.

(2) This is an application in terms of Section 482 of the Code of Criminal Procedure, 1973, seeking to quash FIR in Crime No.958/2019, registered with Police Station Ram Nagar, District – Chandrapur, for the offences punishable under Sections 143, 147, 149, 323, 504, 506 and 352 of the Indian Penal Code, on account of settlement in between the parties.

(3) The informant was serving as Additional Manager with a private limited company at Chandrapur. On the date of occurrence, a meeting was arranged in the office of Tahsildar where all applicants allegedly quarreled with the informant. Some of the

applicants also slapped at the face of informant and gave threats, therefore, the report. The police have investigated the matter and filed charge-sheet in the Court of concerned Magistrate.

(4) The quashing is sought on account of settlement in between the parties. The informant has filed a reply affidavit stating that in order to maintain cordial relations, the matter is settled and he do not wish to prosecute criminal case furthermore. The informant is present in Court, who has been identified by his Advocate Mr. A.S. Ambatkar. We have enquired with the informant about the settlement, on which, he has agreed. Particularly, we have asked whether he has been pressurized by anyone, however, he has adhered to his statement about settlement and requested for quashing of the FIR.

(5) During pendency of trial, the then learned prosecutor has applied to the Magistrate for withdrawal of prosecution in terms of Section 321 of the Code of Criminal Procedure. The learned Magistrate declined to permit for a withdrawal by passing specific order dated 03.02.2022. Besides that, it is informed that the matter is for recording evidence of the parties.

(6) We have examined the available material against the applicant. The allegation is about causing hurt and giving threats. Though the withdrawal of prosecution was not permitted, however, it has no relevance when the informant himself is ready to settle the matter. Thus, obviously, the said rejection for withdrawal of prosecution would not come the way while invoking inherent powers of this Court. The alleged offence is of simple hurt, therefore, it cannot be termed as heinous or of anti social nature. The parties are resident of same vicinity. Looking to the nature of accusation, it reveals that out of some dispute the incident occurred. In the circumstances, we do not find any impediment in quashing the proceeding, particularly, when the matter is settled and informant do not wish to continue the prosecution. Obviously, as the matter is settled, continuation of criminal prosecution would be an exercise in futility.

(7) We have brought to the notice of applicants learned counsel that at the instance of FIR police machinery rotated, carried investigation and filed charge-sheet in the Court. Not only that the case is pending in Court for considerable period. At this juncture, the learned counsel for applicants upon instructions expressed willingness

to pay cost of Rs.25,000/-.

(8) The inherent powers are to be invoked to prevent abuse of the process of the Court or to secure the ends of justice. The incident as stated is of causing simple hurt and giving threats. The informant himself is not inclined to prosecute the case. The parties are resident of same area. Considering all these aspects, we are inclined to invoke our inherent jurisdiction.

(9) In view of that, the application is allowed and stands disposed. We hereby quash and set aside the FIR in Crime No.958/2019, registered with Police Station Ram Nagar, District – Chandrapur, for the offences punishable under Sections 143, 147, 149, 323, 504, 506 and 352 of the Indian Penal Code as well as related Regular Criminal Case No.1102/2020, which is pending on the file of Judicial Magistrate First Class, Chandrapur.

(10) The applicant shall deposit sum of Rs.25,000/- to be deposited with the High Court Bar Association, Nagpur Bench, Nagpur, on or before **25.04.2023**.

(11) Place the matter on 26.04.2023, for reporting compliance.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

Prity