



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

CRIMINAL APPLICATION NO.785 OF 2022

1. Syed Yunus Pervez s/oZafarul Islam,
aged 64 years, Occupation : Retired,
Government Officer, R/o A/44-45,
Gandhi Layout, Jafar Nagar, Nagpur, Ta.
And Dist. Nagpur.

1A. Dr. Shizan Pervez, Age 35 years, Occ.
Doctor, R/o A/44 Gandhi Layout, Jafar
Nagar, Katol Road, Ta. And Dist. Nagpur.

(Amended as per order dated
18/04/2023)

... APPLICANTS

VERSUS

1. State of Maharashtra, through Police
Station Officer, Police Station
Gittikhadan, District Nagpur.

2. Yusuf Jamil Sheikh s/o Shakeel
Anjum Sheikh, Aged 38 years, R/o
Flat 202, Elegant Apartment, Gandhi
Layout, Jafar Nagar, Nagpur, Tq. And
Dist. Nagpur.

... NON-APPLICANTS.

Shri S.V. Sirpurkar, Advocate for the applicants.

Ms. Haider, Addl.PP for the State.

Shri R. Mirza, Advocate for the non-applicant no.2.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATED : 08.11.2023.

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

Heard. **ADMIT.**

2. The matter is taken up for final disposal by consent of learned Counsel appearing for the parties.

3. This is an application seeking to quash the charge-sheet which has been numbered as R.C.C. No.1443 of 2022 pending on the file of the Judicial Magistrate First Class, Nagpur arising out of Crime No.496 of 2021 registered with the Gittikhadan Police Station, Nagpur City for the offence punishable under Sections 447, 352, 323, 504, 506(2) read with Section 34 of the Indian Penal Code. The quashing is sought on account of the mutual settlement.

4. The informant and applicants are neighbors. There was a minor dispute on account of the falling of dried leaves of a tree that was adjacent to the compound wall. On such a trifling issue, there was a quarrel in which applicant no.1 abused the informant in filthy language. Family members of the informant intervened, however, the

applicant no.1 and his son both man handled and threatened them by show of revolver and a gun. In said occurrence, the informant's mother Nashid Anjum as well as cousin brother Amin Khan sustained minor injuries.

5. The Police have investigated the matter and filed the charge-sheet. It is informed that yet charges have not been framed. In the meantime, with the aid and intervention of the community people, the matter has been amicably settled. The parties have filed a Joint Affidavit stating about the settlement. The informant is a practicing advocate, who is present before the Court. He has stated about the settlement and his non-inclination to go on with the prosecution. Particularly, he would submit that since the parties are neighbors, the matter has been settled. The informant has also filed a Pursis stating that his mother and cousin brother have no objection to quash the proceedings and they apprise him to communicate the said to this Court.

6. It is brought to the notice that the Police machinery has been rotated and the Court is required to take steps in the criminal case. At this juncture, learned Advocate Shri S.V. Sirpurkar upon instructions, made a statement that the applicants would deposit sum

of Rs.20,000/- towards costs.

7. Taking the over all view of the matter, it reveals that on the trifling issue, there was a quarrel. The emotions run high hence the incident of threat by show of gun was occurred. The parties are the neighbors and belongs to the same community. The offence cannot be termed as heinous or anti-social. Particularly, in order to maintain peace and harmony in the vicinity, we are inclined to quash the proceedings.

8. In view of the above, following order is passed :

- (a) The application is allowed and disposed of.
- (b) We hereby quash and set aside the charge-sheet which has been numbered as R.C.C. No.1443 of 2022 pending on the file of the Judicial Magistrate First Class, Nagpur arising out of Crime No.496 of 2021 registered with the Gittikhadan Police Station, Nagpur City for the offence punishable under Sections 447, 352, 323, 504, 506(2) read with Section 34 of the Indian Penal Code.
- (c) The applicants shall deposit costs of Rs.20,000/- with the High Court Bar Association, Nagpur on or before 10.11.2023.

9. Place the matter for noting the compliance on 28.11.2023.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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