

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

CRIMINAL APPLICATION (APL) NO.457/2019

- APPLICANT :
1. Onkar s/o Demaji Raut
Aged about 45 years, Occu. Agriculturist,
Mobile No.7875176341
 2. Ganesh s/o Onkar Raut,
Aged about 17 years, Occu. Education
G.A.L. Applicant no.1.
Both R/o At Post Aansing Krushna,
Tq. Distt. Washim

VERSUS

- RESPONDENTS :
1. State of Maharashtra
Through P.S.O. Ansing,
Tal.and Dist.Washim.
 2. Sau. Devkabai w/o Atmaram Bodkhe
Aged about 65 years, Occu. Household
R/o At Post Aansingh Krushna,
Tal.and Dist. Washim.

Mr. R.L. Kadu, Advocate for applicant.
Mr. N.R.Rode, Additional Public Prosecutor for respondent No.1.
Mr. N.B.Kalwaghe Advocate for respondent No.2.

**CORAM:- VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.
DATED : 31/03/2023.**

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. Heard. **Admit**. Heard finally with the consent of
learned counsel appearing for the parties.

2. This is an application seeking to quash FIR in Crime No.0029/2019 registered with Police Station, Aansing, District Washim for the offences punishable under Sections 307, 294, 506 read with Section 34 of the Indian Penal Code. Apart from merits, quashing is sought on account of settlement in between the parties.

3. Learned counsel appearing for the applicants would submit that though the crime was registered for the offence punishable under Section 307 of the Indian Penal Code, however, the police papers do not disclose the essential ingredients to constitute the said offence. It is the case of the informant-lady that on the date of occurrence while she was proceeding on foot, applicant no.1 came from behind in high speed by riding on motor-cycle and, therefore, informant felt that he was about to dash and thus intended to commit her murder. Perusal of police paper indicates that merely on account of rash driving the offence under Section 307 of the Indian Penal Code has been registered. The matter is settled between the parties for which an affidavit has been filed.

4. Informant-lady is present in the Court, who is identified by her Advocate Mr. Kalwaghe. The informant has

stated about compromise and no objection to quash the FIR. In reported case of **Narinder Singh and others Vs. State of Punjab and anr. (2014 AIR SCW 2065)**, the Hon'ble Supreme Court has laid down the parameters in para 31, which are to be looked upon while accepting the plea of settlement pertaining to quashing of the crime. Guideline no.(VI) reads as below:

“(VI) Offences under Section 307, IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307, IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307, IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307, IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc.”

5. The case herein is far away as neither a weapon is used nor victim sustained injury. Merely because the police have invoked Section 307 of the Indian Penal Code, it does not preclude us from exercising our inherent powers. Moreover, as the matter is

settled between the parties, there is no purpose in continuing the prosecution as it would exercise in futility.

6. In view of above, the application is allowed. We hereby quash and set aside FIR in Crime No.0029/2019 of Police Station Ansing, related Chargesheet No.60/2022 for the offence punishable under Sections 307, 294, 506 read with Section 34 of the Indian Penal Code and consequential Criminal Case bearing No.11/2023 pending on the file of Additional Sessions Judge, Washim.

(Bharat P. Deshpande, J)

(Vinay Joshi, J)

Ambulkar