



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

CRIMINAL APPLICATION [APL] NO.1397 OF 2023

Applicants : 1. Junaid Rafik Shekha,
Aged 30, Occ. Private,
R/o Shivaji Chauk, Pusad, Yavatmal.

2. Avesh Nazir Sheikh (In Jail),
Aged 25, Occ. Private,
R/o Parvati Nagar, Pusad, Yavatmal.

– Versus –

Non-Applicants : 1. State of Maharashtra,
Through Police Station Vasantnagar,
Dist. Yavatmal.

2. Kartik Raju Kale,
Aged 23 years, Occ. Labour,
R/o Khadse Maidan, Vasantnagar, Pusad,
Yavatmal.

3. Amit Khan Aziz Khan,
Aged 24 years, Occ. Labour,
R/o Vasant Nagar, Pusad, Yavatmal.

Mr. M.N. Ali, Advocate for the Applicants.
Mr. S.M. Ghodeshwar, A.P.P. for Non-Applicant No.1.
Mr. R.N. Borwankar, Advocate for Non-Applicant No.2.

CORAM: **VINAY JOSHI AND M.W. CHANDWANI, JJ.**
DATE : **26th OCTOBER, 2023.**

J U D G M E N T : *(Per Vinay Joshi, J.)*

Admit.

02] Heard finally with the consent of both learned Counsel for the parties.

03] This is an application seeking to quash First Information Report in Crime No.425/2023, dated 14/09/2023, registered with Police Station Vasantnagar, District Yavatmal for the offence punishable under Section 3 read with Section 25 of the Arms Act, under Sections 294, 307, 341, 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on account of mutual settlement.

04] It is a prosecution case that on 14/09/2023, the informant was proceeding by riding on his two wheeler. Both the applicants accosted him in the way alleging that the informant drove his motorcycle in a rash manner giving them a jerk. There was oral altercation in which applicant No.2 Sheikh Avesh Sheikh Nazir abused the informant in the name of caste and gave a slap. So also, applicant No.1 Junaid Shekha also intervened, took out a pistol and by hurling abuses gave a threat that he would kill the informant's friend- Amit. On the basis of said occurrence, crime has been registered.

05] The matter is amicably settled between the parties. Both the victims namely informant Kartik and Amit appeared and filed their reply

stating their 'no objection' to quash the proceeding. They contended that with the help and intervention of common friends, the matter is settled. It is submitted that they have resolved the misunderstanding and to maintain the cordial relations, they have settled the dispute. Both of them are present in the Court and they are identified by their respective Counsel. On our query, they have agreed to settlement and gave no objection to quash the proceedings.

06] The learned Additional Public Prosecutor resisted the application contending that the offence punishable under Section 307 of I.P.C. and under the provisions of the Atrocities Act, are serious in nature. True, crime has been registered for the offence punishable under Section 307 of the Indian Penal Code. However, the Supreme Court in the case of Narinder Singh & Ors. vs. State of Punjab & Anr. - 2014 ALL MR(Cri) 1886 (S.C.), has observed that only because F.I.R. incorporates the provision of Section 307 of I.P.C. would not, by itself, be a ground to reject the petition under Section 482 of the Code of Criminal Procedure. It is expressed that the Court should go by the nature of injury sustained, the portion of the body where the injuries were inflicted, nature of weapon and all other relevant circumstances. In the light of said proposition, we had a relook to the contents of F.I.R. It reveals that applicant-Junaaid allegedly took out his pistol and gave threat to witness-Amit.

The act of applicant-Junaid, even if accepted as its stand, it does not make out the case that with requisite intention and knowledge, he has attempted to kill witness-Amit. Rather it is a case of giving life threats only. Merely because the pistol was used, it cannot be said that there was an intentional attempt to kill. Therefore, even if the prosecution case is accepted at its face value, it does not make out a case punishable under Section 307 of the I.P.C.

07] The applicants' learned Counsel relied on the decision in the case of Shrikrushna Pandurang Tayde; Prashant Nandkishore Rathi vs. State of Maharashtra, through Police Station Officer, Gadge Nagar Police Station, Amravati – 2017 LawSuit(Bom)1009 and Ashraf Mohammad Calcuttawala and Ors. vs. State of Maharashtra and Ors. - 2014 LawSuit(Bom)2735 to contend that this Court took a view that the offences punishable under the Atrocities Act can be quashed on account of settlement, as they would not be against the public at large. By the time, the matter is compromised and the victims do not want to prosecute the case. Both the parties are residing in the same city and to maintain cordial relations, they have settled their differences. Having regard to above facts, we are inclined to exercise our inherent jurisdiction.

08] At this stage, we have brought to the notice that due to the report, the police are required to register the crime and to investigate in the matter.

At this juncture, the applicants' learned Counsel made a statement that they would deposit sum of Rs.25,000/- towards costs.

09] In view of above, the application is allowed. We hereby quash and set aside First Information Report in Crime No.425/2023, dated 14/09/2023, registered with Police Station Vasantnagar, District Yavatmal. The applicants shall deposit sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with the High Court Gazetted Officers' Association, Nagpur, on or before 8th November, 2023.

10] The matter be placed before the Court on 9th November, 2023 for noting compliance.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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