

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

CRIMINAL APPLICATION NO.1643 OF 2022

Ram s/o Baban Kale, Aged about 22
years, Occupation : Nil, R/o Govind
Nagar, Pusad, Tah. Pusad, District –
Yavatmal.

... APPLICANT.

VERSUS

1. State of Maharashtra, through
Police Station Officer, Police Station
Vasant Nagar, Yavatmal, Distt.
Yavatmal.
2. Shubham Anandrao Atram, Aged
about 27 years, Occupation : Private
Service, R/o shivaji Ward, Pusad,
Tah. Pusad, District Yavatmal.

... NON-APPLICANTS.

Shri D.V. Mahajan, Advocate for the applicant.
Shri Thakare, A.P.P. for the non-applicant/State.
Shri Pushkar Lawankar, Advocate for non-applicant no.2.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 08.08.2023.

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

Non-applicant no.2(informant) has appeared *suo moto* through the learned Counsel Shri Pushkar Lawankar and filed reply-cum-affidavit stating his no objection to quash the proceedings.

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

3. **ADMIT.** This is an application seeking to quash the First Information Report ('FIR') along with the charge-sheet relating to crime No.38 of 2019 registered with the Vasant Nagar Police Station, District Yavatmal for the offence punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, on account of settlement.

4. On 12.02.2019 around 9.00 p.m., while the informant Shubham Atram was passing from the public road, he was accosted by four persons in which one of them dealt a knife blow at his face and others also beat him. On the basis of informant's report, the Police investigated the matter and filed the charge-sheet for the aforesaid mentioned offences.

5. On examination, we see that the role assigned to the applicant Ram Kale is to the extent of causing hurt by a stick. As per the FIR, the informant's friend namely Sandesh Utale also sustained the stick injury. The informant has compounded the matter to the extent of present applicant Ram Kale (accused no.2) only. So far as the other assailants are concerned, he intent to prosecute as one of them has dealt a knife blow. By filing an affidavit-cum-reply, the informant Shubham Atram has stated about the settlement and his no objection to quash the proceedings. Another injured namely Sandesh Utale is present before the Court. He has also filed an affidavit stating that he has also no objection to quash the proceedings. Perusal of entire charge-sheet, we see that majority of allegations are against the rest of the accused and the role assigned to the applicant appears to be his presence and causing a simple hurt. It reveals that besides the informant and Sandesh, no other has stated about the specific assault at the hands of the applicant Ram Kale.

6. Learned Counsel appearing for the applicant has pointed out that due to demise of applicant's father, he has applied for employment on compassionate ground with the Police Department. He has produced the documents to show that he has been called on 27.08.2022 for tendering the documents relating to compassionate

appointment. According to the applicant, pendency of existing criminal prosecution may deprive him from compassionate appointment, and therefore, he urged for the quashing.

7. On examination of entire material, we see no major allegations against the present applicant. Both injured have filed an affidavit in reply stating their no objection to quash the proceedings. Though allowing of this application would result into quashing the criminal trial in respect of one of the accused only however we have noted the peculiar facts about the applicant's avenue of compassionate appointment. Certainly, pendency of the prosecution may lead the applicant in losing his prospects of government job. The ends of justice can be ceased by quashing the prosecution against the applicant.

8. Considering the above peculiar facts, we are inclined to exercise our inherent jurisdiction. In view of that following order is passed :

- (a) The application is allowed.
- (b) We hereby quash and set aside the First Information Report ('FIR') in crime No.38 of 2019 registered with the Vasant Nagar Police Station, District Yavatmal for the offence punishable under Sections 324, 323, 504, 506 read with

Section 34 of the Indian Penal Code and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 along with the pending criminal case bearing Special Case No.20 of 2019 pending on the file of Additional Sessions Judge, Pusad to the extent of the present applicant Ram s/o Baban Kale only.

9. The application stands disposed of accordingly.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

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