

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.781 OF 2024**

Mehfooz M. Shaikh @ Mehfooz
Ahmed Maqsood Ahmed Shaikh ...Petitioner
Versus
1. State of Maharashtra
2. The Senior Inspector of Police
3. Adnan N. Shaikh
4. Uman N. Shaikh. ...Respondents

Mr. Khwaja Shaikh for the Petitioner.
Ms Sangita E. Phad, APP for the Respondent/State.
Mr. Abhay G. Dolas for Respondent Nos.3 and 4.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.
DATE : 12.03.2024.**

PC:-

1. The petitioner is charge-sheeted for the offence under Section 307 of the Indian Penal Code (IPC). The proceedings are pending before the Sessions Court at Dindoshi, Mumbai vide Sessions Case No. 102 of 2018.

2. The First Information Report (FIR) dated 12.07.2017 was registered at the instance of respondent No.3 with D.N. Nagar Police Station vide FIR No. 437 of 2017. It is alleged that on 11.07.2017, the first informant learnt that his brother Uman N. Shaikh (respondent No.4) has been hospitalised. He visited the hospital and found that his brother was in unconscious condition. Subsequently, he learnt that his brother was assaulted by the petitioner. The statements of the witnesses were recorded which indicate that there was quarrel between

the victim and the accused and at that time, the petitioner held the victim forcefully below his armpit, as a result of which the victim fell unconscious. He was taken to hospital by the petitioner for treatment.

3. Learned Advocate for the petitioner submitted that there is settlement between the parties. The complainant and the injured have no objection for quashing the impugned proceedings. The offence under Section 307 of the IPC is not made out. The petitioner and the injured are friends.

4. Learned Advocate for respondent Nos.3 and 4 submitted that the respondent Nos.3 and 4 have no objection for quashing the proceedings. There is amicable settlement between the parties.

5. Respondent Nos.3 and 4 are present in the Court. They have filed consent affidavits for quashing the proceedings.

6. Learned APP submitted that the offence is of serious nature. The FIR was registered under Section 307 of the IPC. After the incident, the victim was unconscious for four days. The medical certificate on record indicates that the act committed by the accused is life threatening. The matter is kept before the trial Court for framing charge and hence, the petition for quashing the proceedings by consent may not be allowed.

7. From the FIR and other documents, it is apparent that the victim and the petitioner are friends. On account of quarrel, the petitioner had allegedly held the victim forcefully below his armpit, as a result of which the victim was unconscious. He was taken to the hospital by the petitioner. The factual matrix which is apparent on record does not indicate that there was intention to commit murder and therefore, Section 307 of the IPC would not attract. There is settlement between the parties. The complainant and the injured have filed the affidavits supporting the prayer for quashing the proceedings.

8. Considering the aforesaid factual aspects, the reliefs sought in the petition can be granted.

ORDER

A] Writ Petition is allowed.

B] The proceedings in Sessions Case No.102 of 2018 pending before the Sessions Court at Dindoshi, Mumbai arising out of FIR dated 12.07.2017 registered with D.N. Nagar Police Station vide FIR No. 437 of 2017 are quashed and set aside, subject to payment of costs.

C] The petitioner shall pay the costs of Rs.10,000/- to Advocates' Association of Western India Generation Next

within a period of three weeks from today and submit the receipt of the same in the Registry of this Court. The details of the bank account for payment of costs are as under:

Account Name	:	Advocates' Association of Western India Generation Next
Account Number	:	000110110007807
Bank Name	:	Bank of India
Branch Name	:	Mumbai Main
IFSC Code	:	BKID0000001

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)