



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

CRIMINAL APPLICATION NO.1432 OF 2023

1. Sheikh Salim Sheikh Gafur, Aged about 25 years, Occ. : Labourer.
2. Sheikh Mehboob Sheikh Sadik Aged about 36 years, Occ. : Business.
3. Sheikh Ahmed Sheikh Sadik, Aged about 34 years, Occ : Business.
4. Rehan Khan Riyaz Khan, Aged about 24 years, Occ : Labourer

All r/o Amraipura, Arni, Tq. Arni, Dist.
Yavatmal.

... APPLICANTS

VERSUS

1. State of Maharashtra, through its Police Station Officer, Police Station Arni, Tq. Arni, Dist. Yavatmal.
2. Pramod s/o Ashok Pandhare, aged about 23 yers, Occ : Business, R/o Amraipura, Arni, Tq. Arni, Dist. Yavatmal.
3. Gopal s/o Ashok Pandhare, aged about 20 years, Occ. Student, R/o Amraipura, Arni, Tq. Arni, Dist. Yavatmal.

... NON-APPLICANTS.

Shri S. Varshani, Advocate for the applicants.
Shri A.B. Badar, Addl.PP for the State.
Shri A.A. Zade, Advocate for non-applicant nos. 2 and 3.

CORAM : VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 04.01.2024.

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. By invoking the powers under Section 482 of the Code of Criminal Procedure, the applicants are seeking to quash the charge-sheet arising out of crime No.416 of 2023 registered with the Aarni Police Station, District Yavatmal for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code (IPC), Sections 3(1)(r), 3(2), 3(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, on account of mutual settlement.

4. The informant is the brother of injured Pramod. It is his case that on 24.07.2023, around 11.50 p.m. injured Pramod proceeded

on motorcycle to his house. After few hours, the informant learnt from one Rahil that Pramod has sustained injuries, and therefore, shifted to the Government Hospital. The informant rushed to the Hospital and saw that Pramod sustained injuries at his ankle and both knees. On inquiry the informant learnt that the applicants have accosted Pramod in the way, beaten by means of iron rod, therefore, he went to the Police and lodged the report. The Police have completed the investigation and filed the charge-sheet.

5. The parties are resident of same village, with the advice of villagers and community people, they have settled the dispute amicably. The informant as well as injured have filed the affidavit stating that the matter has been settled and they have no objection in quashing the FIR. Both appeared before this Court, who were identified by their Counsel. Particularly, the informant Gopal stated that the applicants have borne entire medical expenses and to maintain cordial relations, he do not wish to prosecute the case.

6. We have gone through the statement of injured Pramod. Similarly, he has stated that all applicants beaten him by means of iron rod causing injuries at his ankle and knees. We have perused Medico Legal Injury Report issued by the Rural Hospital, Aarni. Injured Pramod

sustained three wounds namely 1. Incised wound, 2. Swelling at right knee and 3. Swelling at left hand. These injuries were caused by hard and blunt object, which has caused fracture. He also stated that to maintain cordial relations, he do not wish to prosecute the case.

7. True, the Police have registered the offence punishable under Section 307 of the IPC however in view of the decision of the Supreme Court in case of ***Narinder Singh and ors. vs. State of Punjab and ors. (2014) 6 SCC 466***, the Court has to look into the factual aspect whether the Section invoked by the Police would apply. In case at hand, the applicants have not used any sharp edged weapon nor assault was on the vital part of the body. Besides swelling only one incised wound was caused at left tibia fibula, therefore certainly provision of Section 307 of the IPC may not apply.

8. Both sides are residing in the same village. The applicants have borne entire medical expenses. Certainly quashing of prosecution would help to maintain cordial relations in the vicinity. We have brought to the notice of the applicants that due to incident, the Police required to investigate the matter and filed charge-sheet. At this juncture, learned Counsel for the applicants would submit that the applicants would deposit sum of Rs.50,000/- towards the cost.

9. Having regard to the nature of injuries and the mutual settlement, it is difficult to secure the conviction and the trial would be futility exercise. In view of that, we are inclined to exercise our inherent powers, hence the following order :

- (a) The criminal application is allowed and disposed of.
- (b) We hereby quash and set aside the charge-sheet in crime No.416 of 2023 registered with the Aarni Police Station, District Yavatmal for the offence punishable under Sections 307 read with Section 34 of the Indian Penal Code, Sections 3(1)(r), 3(2), 3(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
- (c) The applicants shall deposit cost of Rs.50,000/- with the Government Pleaders' Library within two weeks from today.

10. Matter be placed for noting compliance on 22.01.2024.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)

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