



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

45 CRIMINAL APPLICATION NO. 80 OF 2024

- 1] Javed S/o Dastgir Patel,
Age 44 years, Occu. Nil,
R/o Faradpur, Tq. Renapur,
District: Latur.
- 2] XYZ.
- 3] Saniya @ Begumbee W/o Javed Patel,
Age 35 years, Occu. Household,
R/o Faradpur, Tq. Renapur,
District: Latur.

... Applicants
(Orig. Accused)

Versus

- 1] The State of Maharashtra
Through the Investigation Officer Renapur
Police Station Renapur, District Latur.
- 2] Nissar Jalil Shaikh,
Age 30 years, Occu. Agril.,
R/o Fardapur, Tq. Renapur,
District: Latur.

... Respondents

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Mr. Dnyaneshwar A. Bide & Mr. Layak S. Shaikh, Advocate for Applicants.

Mr. V. K. Kotecha, APP for Respondent No.1 / State.

Mr. Apparao Prakash Yenegure, Advocate for Respondent No.2.

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CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 21st April, 2025.

Per Court:

. Present application has been filed under Section 482 of the Code of Criminal Procedure initially for quashing the FIR vide C.R. No.356 of 2023, dated 17th October, 2023, registered with Renapur Police Station, District Latur, and later on, by way of amendment, for quashing the proceedings in R.C.C. No.75 of 2024, pending before the learned Judicial Magistrate First Class, Renapur, District Latur, for the offence punishable under Sections 323 and 324 read with 34 of the Indian Penal Code.

2 Heard the learned counsel for the applicants, the learned APP and the learned counsel for respondent No.2. In order to cut short, we would like to say that they all have argued strongly supporting their respective contentions.

3 Applicant No.2 being a minor, we would like to mask his name.

4 Perusal of the FIR lodged by respondent No.2 with Renapur Police Station would show that the incident had taken place on 28th September, 2023 around 12.30 pm, whereas the FIR has been lodged on 17th October, 2023. There is an inordinate delay in lodging the FIR. Whether the said delay has been explained or not would be considered at a later point of time.

5 The FIR states that when the informant was tethering the cattle in Gat No.81 within the jurisdiction of Faradpur, Taluka Renapur, applicant Nos.1 and 2, whose land is adjacent to the land of the informant, came and started quarreling with the informant by saying that why he is tethering the cattle in their land. The informant replied that it is his land and thereupon, applicant No.1 came near to the informant and took bite near the right side of the neck of the informant. Applicant No.2 (minor) brought a stone and caused injury by hitting it on the lips of the informant, thereby causing a bleeding injury to his lips. Applicant No.3, who is the wife of applicant No.1, is stated to have assaulted the informant by hand. It is then also stated that applicant No.1's daughter was also present there. The statements of witnesses would show that witness Zarinabi Shaikh is the mother of the informant, who upon information, went to the spot. Other eye-witnesses are stated to be Radhika Amnavar and Swarnmala Amnavar. The injury certificate would show that the informant was medically examined on 28th September, 2023. He sustained abrasion on neck of 1 cm x 1 cm. The nature of injury is stated to be simple with hard and blunt object. Another injury is stated to be on lips of 0.5 cm x 1 cm, simple in nature with hard and blunt object. It is then also stated that history of human bite given by the patient. The margins and directions of both the injuries is stated to be ill-defined. Thus, even if

we take the FIR and the statements of witnesses as it is and the injury certificate, it states that two simple injuries were caused to the informant; one by human teeth and another by stone. In the spot *Panchanama* nothing has been seized. Therefore, we are unable to get the dimensions of the stone.

6 For the delay, the informant submits that he was seriously ill after the incident. But as aforesaid, he has suffered only simple injuries and therefore, we take that the inordinate delay has not been properly explained.

7 In one of our recent ruling in the case of ***Tanaji Shivaji Solankar and others Vs. The State of Maharashtra and another*** (Criminal Application No.5049 of 2024) decided on 4th April, 2025, in which we had relied on the decision of the Honourable Supreme Court in the case of ***Shakeel Ahmed Vs. State of Delhi***, reported in, **(2004) 10 SCC 103**, we held that human teeth are not the instrument of cutting, shooting, stabbing etc., which can be covered under Section 324 of the IPC. Therefore, though *prima-facie*, there might be evidence to state that the injury was caused with human teeth, it cannot be an offence as defined under Section 324 of the IPC. Similarly, even the stone without its dimensions cannot be considered as an instrument of cutting, shooting, stabbing or any instrument,

which used as a weapon of offence, is likely to cause death. Therefore, the material in the charge-sheet is not sufficient for taking cognizance of the offence under Section 324 of the IPC. There may be an evidence for the offence under Section 323 of the IPC, but then in that case it being a non-cognizable offence, FIR under Section 154 of the Cr.P.C. was not maintainable. Under such circumstances, it would be an abuse of the process of law as per the guidelines given in the case of ***State of Haryana and others Vs. Ch. Bhajan Lal and others***, reported in, ***AIR 1992 SC 604***, and therefore, this is a fit case where we should exercise our powers under Section 482 of the Cr.P.C.

8 We therefore, proceed to pass the following order:-

ORDER

- I. The application stands allowed.
- II. The proceedings in R.C.C. No.75 of 2024, pending before the learned Judicial Magistrate First Class, Renapur, District Latur, arising out of FIR vide C.R. No.356 of 2023, dated 17th October, 2023, registered with Renapur Police Station, District Latur, for the offence punishable under Sections 323 and 324 read with 34 of the Indian Penal Code, stands quashed and set aside as against the present applicants.

III. Before parting, a fact i.e. required to be noted is that the charge-sheet as against applicant No.2 might have been then forwarded to the Juvenile Justice Board and the note thereof has been taken in the charge-sheet and therefore, by this order, we quash and set aside that proceedings also.

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[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]