



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

CRIMINAL REVISION APPLICATION NO. 16 OF 2024

APPLICANT : Sayyed Abdul Rashid s/o Misbahuddin
Sayyed, Aged about 36 years, Occupation:
Service, R/o Plot No. 117, near Idgaah,
Jafar Nagar, Nagpur-440013.

VERSUS

NON-APPLICANTS 1. State of Maharashtra,
through Police Station Gittikhadan,
Nagpur.

2. Ganesh s/o Angu Swamy,
Age 50 years, Occu: Business,
R/o Flat No. 202, Adnan Apartment,
Tent Line, Mohan Nagar, Nagpur 440001.

3. Amit Panchamsingh Bais,
Age 44 years, Occu: Business,
R/o Daal Olee No.2, Kamptee, Nagpur.

Mr. Ravi R. Shrivastava, counsel for the applicant.
Mrs. Sneha Dhote, APP for non-applicant/State.
Mr. Bharat B. Mehadia, counsel for non-applicant Nos. 2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 23/01/2025

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsels appearing for the parties.

3. Being aggrieved by the order dated 30/12/2023 passed by the Additional Sessions Judge-10, Nagpur, below Exhibit 10 in Sessions Case No. 595/2010 rejecting the application filed by the applicant for discharge from the said case for the offence under Sections 307, 294, and 506B read with Section 34 of the Indian Penal Code, 1860; and Section 3/25 of the Indian Arms Act, 1959; and Section 135 of the Bombay Police Act, 1951. The applicant is constrained to invoke the revisional jurisdiction of this Court under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

4. As per the contention of the petitioner that on 16/10/2018, a first information report came to be lodged by non-applicant No.2 alleging therein that, on 15/12/2018 at about 11.30 a.m., when he was in process of arranging food for his relatives, attending marriage function in a private marriage hall, one person by allegedly holding the collar of a waiter was abusing

him, and when he allegedly tried to intervene in the same, the said person allegedly abused him and thereafter, went inside the office of the lodge, and from the alleged associate i.e. the present petitioner brought the weapon looking like a pistol and was proceeding towards him and in the meantime, his brother-in-law namely Amit Bais caught hold of the said person, and at that time he was saying that “I will see you”. On the basis of the said report, police have registered the crime. The investigation was carried out, and the charge-sheet was filed. The applicant has filed the application for discharge under Section 227 of the Code of Criminal Procedure.

5. During the pendency of this revision, they both entered into the settlement. The written submissions on behalf of the non-applicant Nos. 2 and 3 show that the non-applicant Nos. 2 and 3 had filed a complaint for offence committed under Sections 307, 294, 506-B, 323, and 34 of the Indian Penal Code against the applicant on the basis of the incident occurred at 11.30 p.m. on 15/12/2018 at A.R.C. Lawn Gorewada. It is further submitted that the accused No. 2, namely Mr. Abdul Rashid, the applicant, was very well acquainted with the non-applicant No.2 from last 30

years. When the non-applicant No.2 and the present applicant were used to stay at Kamptee, there were good relations between them. The applicant is a tooth technician by profession. The involvement of the present applicant in the alleged crime is on the basis of the information received. It is submitted that the complainant does not want to proceed with the present applicant, and they have settled the dispute.

6. Heard learned counsel for the applicant, who submitted that in view of the reply filed by the non-applicant Nos. 2 and 3, the applicant be discharged and the proceedings be quashed, in view of the settlement between them.

7. On the other hand, learned APP strongly opposed the said contention on the ground that the offence under Section 307 of the Indian Penal Code is non-compoundable, and the provisions of 325 IPC are also attracted against the present applicant. She submitted that mere showing of the weapons and keeping the complainant under the apprehension of death is also sufficient to attract Section 307 of the Indian Penal Code. Under Section 320 of the Cr.PC., the offence is not compoundable, and therefore, it cannot be permitted to compound. In view of that, the application

deserves to be rejected.

8. As far as the contention of the learned APP that offence is non-compoundable is concerned, is not disputed. This aspect is considered by the Hon'ble Apex Court in the case of ***State of Madhya Pradesh vs Laxmi Narayan in Criminal Appeal No. 349 and 350/2019 [AIR 2019 SC 1296]***, wherein the Hon'ble Apex Court laid down the parameters and, by considering the law on the point and the other decision of its case. On the point of compounding the offence, and the powers conferred under Section 482, it is observed and held as under ;

- a] That, the power conferred under Section 482 of the Code to quash the criminal proceeding for the non-compoundable offences under Section 320 of the Code can be exercised. Having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationships or family disputes, had been parties have resolved the entire dispute amongst themselves.
- b] Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in

nature and have a serious impact on society.

- c] Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act, or the offences committed by public servants while working in that capacity, are not to be quashed merely on the basis of compromise between the victim and the offender.

9. The Hon'ble Apex Court further observed that offences under Section 307 of the Indian Penal Code and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crimes against society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 of the Indian Penal Code and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Indian Penal Code on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 of the Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine whether incorporation of Section 307 of

the Indian Penal Code is there for the sake of it or if the prosecution has collected sufficient evidence, which, if proved, would lead to framing the charge under Section 307 of the Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of the injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, the nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charges framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in para Nos. 29.6 and 29.7 of the decision of this Court in the case of ***Narinder Singh v. State of Punjab [(2014) 6 SCC 466]*** should be read harmoniously and as a whole and in the circumstances stated here-in-above.

10. It is further held that while exercising the powers under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offence, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement / compromise between the victim and

the offender, the High Court is required to consider the antecedents of the accused. The conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.

11. After careful analysis of the facts in the present case, and in the light of the legal position as summarized above, I am of the considered opinion that the incident which is narrated in the First Information Report, wherein the role attributed to the present applicant is that he has handed over the weapon-like pistol. The statement of the non-applicant nos.2 and 3 before this Court shows that the said contention was on the basis of the information received by them.

12. Thus, the offence although serious, does not have a serious impact of the society, it is a private dispute between the parties. No injuries are sustained by the non-applicant No. 2. The nature of the injury or injury itself is not there, and therefore, in the light of the above observations, there is no hurdle to allow the application by discharging the present applicant from the criminal proceedings. In view of that, by using the power under Section 482

of the Code, it would be in the interest of justice to quash the criminal proceedings against the present applicant in connection with crime No. 637/2018. In view of that, I proceed to pass the following order.

- a] The revision application is **allowed**.
- b] The proceedings, i.e. crime No. 637/2018 dated 16/12/2018, which came to be registered against the present applicant on the basis of the complaint of the non-applicant No.2 is hereby quashed against the present applicant, namely Sayyed Abdul Rashid s/o Misbahuddin Sayyed.
- c] The revision application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]