



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

CRIMINAL APPLICATION (APL) NO.393/2025

Yash Naresh Pandit .Vs. The State of Maharashtra and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. M. Tiwari, Advocate for applicant.

Mr. S. A. Ashirgade, A.P.P. for non applicant No.1 – State.

Mr. S. A. Mohta, Advocate for non applicant No.2.

CORAM : ANIL L. PANSARE AND M. M. NERLIKAR, JJ.

DATE : JULY 29, 2025

Heard.

2. The applicant is prosecuted for the offences punishable under Sections 279, 337, 323, 294, 506 (B) read with Section 34 of the Indian Penal Code, 1860. The First Information Report was registered on 01.05.2022, vide Crime No. 296/2022.

3. As such, the informant and the applicant have settled the dispute and seeking to quash the FIR in terms of the settlement. We are, however, of the view that the FIR/Charge-sheet against one accused cannot be quashed in terms of the compromise. The reason being, in a given case, if FIR/Charge-sheet is quashed against the prime accused in terms of compromise, the prosecution will have an uphill task to prove the charges against the co-accused. Co-accused are bound to take a plea that since the FIR/Charge-sheet has been quashed against the prime accused, they cannot be tried for either abetting the crime or that their role is of a minor nature vis-a-vis the role played by prime accused.

4. Another contingency is, a case where recovery of weapon or articles is made under Section 27 of the Indian Evidence Act, 1872 at the instance of the accused who is being exonerated, the co-accused cannot conduct an effective cross-examination of the

witness who would depose as regards the discovery of weapon/articles at the hands of the accused so exonerated. It is so because the discovery under Section 27 is made of the article/weapon, which is in the exclusive knowledge of the accused and, therefore, it is the accused from whom the discovery/recovery is made, who has knowledge of the nature of recovery and, therefore, is the only person who can effectively cross-examine the witness. If he is exonerated, there will be no one to cross-examine the said witness, in the sense, the rights of co-accused will be at jeopardy. There can be many more contingencies that would affect the trial if one/some of the accused are exonerated on the basis of the compromise.

5. At this stage, counsel for the applicant submits that he will not press for quashment of the proceedings on the basis of compromise because he has a good case on merit as well.

6. Accordingly, we have heard both sides. Our attention is invited to the most crucial statement, which is of the informant. According to her she was driving Aactiva moped. The applicant came on Honda Dio moped. He was riding the vehicle in rash and negligent manner and gave dash to the moped that was being driven by the informant. She sustained some injuries. Her teeth broke and she sustained injury on lips as well. At that time some persons were standing by the side of road. The informant was also brought to the side of the road. The informant called her brother and mother. The applicant was also present there. The mother and brother inquired with the applicant about the incident. At that time, a person namely, Bablu alias Nitin Gade with one person came there and abused the informant, slapped her mother and also assaulted the informant.

7. It is in the aforesaid set of facts, the provisions under Section 294, 323, 506 (B) read with Section 34 of the IPC are invoked.

8. As such, learned A.P.P. submits that since Section 34 of the IPC is invoked, the applicant will also be responsible for the acts done by the other two accused. However, we find that the statements of informant and other witnesses, even if taken at its face value, there is absolutely no nexus between the applicant and two persons who arrived at the spot.

9. None of the witnesses including the informant has disclosed about the relation of applicant and two persons who arrived at the spot and abused and assaulted the informant and her mother. Rather, the statements indicate that those were not even known to the applicant. It cannot be, therefore, said that by taking aid of Section 34 of the IPC, the applicant can be held responsible for the acts done by other persons, that resulted into adding offences punishable under Sections 294, 323 and 506 (B) of the IPC.

10. At this stage, while handling the case papers we came across statement of one witness namely, Akash Gohatre and shocked to notice that he has stated that Bablu alias Nitin Gade is friend of the applicant. This vital fact has been not disclosed either by the applicant's counsel or the learned A.P.P. In our view, the first responsibility will be of applicant's counsel to disclose true and correct facts.

11. In the circumstance, the applicant will be precluded from invoking the extraordinary jurisdiction under Section 482 of the Criminal Procedure Code, 1973. The application is accordingly rejected.

(M. M. Nerlikar, J.)

(Anil L. Pansare, J.)