



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

CRIMINAL APPLICATION (APL) NO.1645 OF 2024

- 1) Sahil s/o Udayvir Shahare
(accused No.1), Age 24 years,
Occupation – Labour,
R/o Near Milind Boudha Vihar,
Rambaugh, Imamwada, Nagpur.
- 2) Ashwin s/o Uttam Dhoke,
(accused No.2), Aged 40 years,
Occupation – Private,
R/o Indira Nagar, Jattarodi No.2,
Imamwada, Nagpur.
- 3) Mayur s/o Ashokrao Dhoke,
(accused No.3), Age 37 years,
Occupation – Private,
R/o Behind Priya Bar, Shiraspeth,
Reshimbagh Square, Imamwada,
Nagpur.
- 4) Siddharth s/o Sukhdev Patil,
(accused No.4), Age 48 years,
Occupation – Labour,
R/o Jattarodi No.3, Indira Nagar,
Imamwada, Nagpur.
- 5) Rajesh s/o Jagobaji Shende
(accused No.5), Age 48 years,
Occupation – Service,
R/o. Plot No.B-8, Congress Nagar,
Dhantoli, Nagpur.

.... APPLICANTS

VERSUS

- 1) State of Maharashtra,
through Police Station Officer,
Police Station, Kuhi, District -
Nagpur (Rural).

2) Amol s/o Narendra Kadav,
Age 24 years, Occupation – Private,
R/o Ward No.14, Kuhi, Tashil -
Kuhi, District – Nagpur.

.... **NON-APPLICANTS**

Mr. Girish Deshpande, Counsel for the applicants,
Mr. A.M. Ghogare, Addl.PP for non-applicant No.1,
Mr. Yash Bage, Counsel for non-applicant No.2.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE OF RESERVING THE JUDGMENT : 05-12-2024

DATE OF PRONOUNCEMENT OF THE JUDGMENT : 27-02-2025

JUDGMENT : (Per : ABHAY J. MANTRI, J.)

Heard. **Admit.** Heard finally with the consent of the learned
Counsel for the parties.

2. The applicants seek to quash the First Information Report (for short, “*FIR*”) dated 28-08-2023 bearing Crime No.575/2023 registered with Kuhi Police Station, District Nagpur, for the offence punishable under Section 394 of the Indian Penal Code (for short, “*IPC*”) against one unknown person and consequent filing of the charge-sheet and proceedings bearing Sessions Case No. 21/2024 against the applicants for the offence punishable under Section 395 of the IPC pending before the learned Additional Sessions Judge, Nagpur.

3. **FACTUAL MATRIX :**

(a) On 27-08-2023 at about 8.30 p.m., non-applicant No.2/informant Amol received a call from his customer about the breaking down of his motorcycle near village Akoli. Hence, he and his associate Anoop went there and tried to repair the bike, but in vain. So, by pushing the motorcycle, they took the said motorcycle towards Kuhi. On the way, a red car came from behind; two people got out of the car, and one of them slapped Anoop and snatched the money and other things from his pocket. The other person caught hold of non-applicant No.2 and took an amount of Rs.3,000/- to Rs.3,500/- from his pocket. When non-applicant No.2 and his friend resisted them, a third person came out of the vehicle. At that time, the person who caught hold of him asked him to take out the weapon, and, therefore, non-applicant No.2 and his friend fled away from their clutches, and non-applicant No.2 lodged the report against unknown persons.

(b) Based on the report, an offence punishable under Section 394 of the IPC was registered against unknown persons. During the investigation, the Investigating Officer filed a charge sheet against the applicants for the offence punishable under Section 395 of the IPC.

4. The learned Counsel for the applicants submitted that the matter had been amicably settled between the parties. It is pertinent to note that during the pendency of the application, non-applicant No.2 suo-motu

appeared through counsel and filed an affidavit in reply stating that the applicants and non-applicant No.2 have cleared their misunderstanding and misconception and have amicably resolved and settled the dispute between them. Therefore, non-applicant No.2 has no objection or grievance if the instant application is allowed as prayed.

5. On 11-11-2024, the informant, accompanied by minor victim Anoop, appeared before the Court and stated that they had no grievance against the applicants. Their counsel identified them. Having regard to the nature of the accusation, time was granted to the learned Assistant Government Pleader to enquire about their antecedents. Pursuant to the said order, on 05-12-2024, non-applicant No.1-API Ingole, Police Station Officer of Police Station Kuhi, filed the affidavit-in-reply. In paragraph No.3, he categorically stated that no antecedents have been found against the applicants. We would like to reproduce paragraph No.3 of the affidavit-in-reply as follows:

*“3. It is submitted that, as per Crime Records maintained by the Police Department, **there is no offence registered against any of the accused except the present one.**”*

6. Thus, it reveals that the matter has been amicably settled between the parties. Pursuant to the settlement, non-applicant No.2/informant suo-motu with the victim Anoop appeared in the court and filed an affidavit in the Court stating that the matter has been amicably settled between him, Anoop and the applicants and, therefore, they have no objection to quash the proceedings nor any grievance against them; if the instant application

is allowed. It is further evident from the affidavit-in-reply of non-applicant No.1-API Ingole that, as per the crime record maintained by the police department, no offence is registered against the applicants except the present one.

7. Though non-applicant No.1 resisted the claim on the ground that the nature of the offence is heinous and antisocial, howsoever, considering the allegations made in the FIR, *prima facie*, it does not appear that the nature of the offence was heinous. However, it seems that some incident occurred between the four unknown persons, the informant and his friend Anoop, and during the conflict, it is claimed that they snatched the amount from the informant's pocket. However, the informant categorically stated that he had lodged the report due to misunderstanding and misconception, and the misunderstanding and misconception have been cleared. The said fact itself denotes that the nature of the offence was neither heinous nor anti-social, but the same arose out of some misunderstanding between them.

8. Moreover, as per guideline No. (v) laid down by the Hon'ble Apex Court in the *State of Haryana and Others vs. Ch. Bhajan Lal and Others, (1992) Supplementary, (1) SCC 335*, in our view, the allegations made in the FIR are absurd and it appears that based on a misconception the FIR was registered, and no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the applicants.

9. In the wake of the above, we find that the continuation of the proceedings before the Trial Court would result in abuse of the court's process and would not serve the ends of justice. Therefore, in the exercise of the powers under section 482 of the Cr.PC., it would be proper to allow the application in terms of the settlement to avoid facing criminal prosecution by the applicants. If the application is allowed, it would not cause prejudice to any of the parties.

10. In the background above, we are satisfied that the case is made out to exercise our inherent powers to secure the ends of justice and to prevent the abuse of the process of law. Hence, we pass the following order.

(i) The application is allowed.

(ii) We hereby quash and set aside the FIR dated 28-08-2023 bearing Crime No.575/2023 registered with Kuhi Police Station, District Nagpur, for the offence punishable under Section 395 of the IPC and consequent filing of the charge-sheet and proceedings bearing Sessions Case No. 21/2024 against the applicants for the offence punishable under Section 395 of the IPC pending before the learned Additional Sessions Judge, Nagpur.

(iii) Inform the concerned trial Court accordingly.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)