



Judgment

5 apl1548.25

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

CRIMINAL APPLICATION (APL) NO.1548/2025

1. Vinod s/o Narayan Bendwal,
age – 46 years, occupation – labour,
r/o- Bondwal Galli, Buldhana.

2. Rohit s/o Vinod Bendwal,
age- 25 years, occupation- labour,
r/o Bondwal Galli, Buldhana. **Applicants.**

:: V E R S U S ::

1. State of Maharashtra, through
Police Station Officer – Buldhana,
district Buldhana.

2. Aziz Khan Ali Khan, aged 28 years
r/o Kamela Road, Sultan Chouk,
Iqbal Nagar, Buldhana. **Non-applicants.**

**Shri S.V.Kulkarni, Counsel for Applicants.
Shri Aditya Gohokar, Addl.PP for the State.
Shri Shashank Kulkarni, Counsel for NA No.1.**

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

DATE : 23/12/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

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1. By this application under Section 528 of the BNSS, applicants are seeking quashing of FIR in connection with Crime No.370/2022 registered under Sections 294 and 307 read with 34 of the IPC and consequent proceeding arising out of the same bearing Sessions Case No.1/2023 pending before learned District Judge and Additional Sessions Judge, Buldhana.

2. The crime is registered on the basis of a report lodged by non-applicant No.2 (the informant) on allegation that on 27.5.2022, when he was proceeding towards his house by walk, the applicants along with some unknown persons approached him. One of co-accused hold him and other accused have assaulted him by means of “sticks”. It is further alleged that he was assaulted by means of “knife” also. On the basis of the said report, the police have registered the crime against the applicants.

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3. During pendency of this application, the parties have arrived at an settlement and filed on record a joint affidavit. The parties are verified by the Registrar (Judicial) of the court and report of the Registrar (Judicial) is placed on record.

4. Heard learned counsel Shri S.V.Kulkarni for the applicants. He submitted that though the offence is non-compoundable, injuries sustained by injured are simple in nature and nature of dispute is also private in nature and it is not affecting the society at large. The settlement terms are accepted by the parties and, therefore, the application deserves to be allowed by quashing the FIR.

5. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the same and submitted that considering the nature of the offence that Section 307 of the IPC is non-compoundable and as offence under Section 307 is not a private dispute between the parties

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inter se, it is the crime against the society. Quashing of the proceeding would be abuse of process of law. In view of that, the application deserves to be rejected.

6. After hearing both the sides and perusing the entire investigation papers, it reveals that out of the dispute between the parties, the alleged incident has taken place.

7. Considering the law on the point and various decisions of the Hon'ble Apex Court, the Hon'ble Apex Court in Criminal Appeal No.349/2019 (**The State of Madhya Pradesh vs. Laxmi Narayan and ors**) decided on 5.3.2019 laid down following principles, which are as under:

“..... (i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and

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predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(ii) 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;

(iii) similarly, such power is not to be exercised for the offences under the special statutes like 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.

It is further observed that offences under Section 307 of the IPC would fall in the category of heinous and serious offences and, therefore, are to be treated as crime against the society and not against the

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individual alone and, therefore, the criminal proceedings for the offence under Section 307 of the IPC which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the 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 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 of the IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 of the IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High

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Court would be permissible only after the evidence is collected after investigation and the chargesheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation.

8. In view of the above observations of the Hon'ble Apex Court, in the present case, admittedly, the investigation is completed. The injury certificate on record shows that the most of injuries sustained are on non-vital part of the body. Except injury No.3 (CLW) which is on occipital area, but the nature of injury is simple. The other injuries are also simple in nature.

9. Though there is allegation that the applicants have assaulted the informant by using "knife", there are no incised wounds as such sustained by the injured and, therefore, the contention of learned counsel for applicants

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that the weapon like “stick” is used in the commission of the crime can be accepted.

10. Thus, considering the nature of the offence, nature of the injuries, the weapon used in the crime, dispute between the parties is private in nature, and investigation is also completed, as the parties have already settled the dispute, no purpose would be served by forcing the applicants to face trial. It would be a futile exercise if they are forced to face the trial.

11. In view of that, the application deserves to be allowed. However, at the same time, considering, that the police machinery have spared their time for their investigation as well as during adjudication, the courts have also spared its time and, therefore, the application deserves to be allowed subject to costs. Accordingly, we proceed to pass following order:

ORDER

(1) The Criminal Application is **allowed**.

(2) FIR in connection with Crime No.370/2022 registered under Sections 294 and 307 read with 34 of the IPC and consequent proceeding arising out of the same bearing Sessions Case No.1/2023 pending before learned District Judge and Additional Sessions Judge, Buldhana are hereby quashed and set aside to the extent of the applicants.

(3) The applicants shall deposit costs Rs.25,000/- with the Police Welfare Fund, Buldhana.

(4) The non-applicant No.2 shall deposit costs Rs.15,000/- with the High Court Legal Services Sub Committee at Nagpur.

(5) The costs shall be deposited within a period of one week from today.

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(6) This order will come into effect after compliance of the payment of the costs. The compliance be reported this court.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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