



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

CRIMINAL APPLICATION (APL) No.1065 OF 2024

Shubham Shyamnarayan Thakur,
Aged about 25,
Occupation : Private,
R/o.Plot No.26, Ganpati Nagar,
Godhani, Nagpur. : APPLICANT

...VERSUS...

1. State of Maharashtra,
Through PSO, Police Station Sadar,
District Nagpur.
2. Ankit Anand Jaiswal,
Aged about 32 years,
Occupation : Private,
R/o.Plot No.203, Naer Hanuman Mandir,
Friends Colony, Nagpur. : NON-APPLICANTS

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Mr. M.N. Ali, Advocate for Applicant.
Mr. N.H.Joshi, Advocate for Non-applicant No.1.

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CORAM : **URMILA JOSHI-PHALKE AND**
NANDESH S. DESHPANDE, JJ.
RESERVED ON : **04th SEPTEMBER, 2025.**
PRONOUNCED ON : **10th SEPTEMBER, 2025.**

JUDGMENT : (Per : Nandesh S. Deshpande)

1. Heard. Admit. Heard finally by consent of parties.
2. This is an application seeking to quash the First
Information Report, in Crime No.232/2015, registered by

non-applicant No.1 for the offences punishable under Sections 364, 326 read with Section 34 of the Indian Penal Code and Section 135 of the Bombay Police Act and subsequent charge-sheet registered as R.C.C. No.365/2016 on the file of 19th Civil Judge, Junior Division and Judicial Magistrate, First Class, Nagpur.

3. As per the F.I.R. which is registered on 22.07.2015 one Ankit Anand Jaiswal lodged a report that on 21.07.2015 at about 10.30 p.m. he accompanied by his friends Kamalnayan Suresh Mishra, Harshal Kiran Mehta and Yamey Mehta came near hotel Heritage at a Pan Kiosk. While he was talking on his mobile persons, namely, Ravi Rathod, Hariom Zamlani, Banshi Chaudhari and Shubham Thakur came in a four wheeler POLO white colour vehicle and called him. While he came near them they pushed him in the said car and Ravi Rathod said that I have not returned Rs.20,000/- to him. Said Ravi Rathod then started physically abusing me while Hariom Zamlani started the vehicle and took me near Aakashwani Square. All of them beat him with fists and blows. Hariom took out a knife and tried to inflict injury with the said knife. During the scuffle which ensued between us, he suffered an injury on hand and head. He somehow succeeded in opening the door of the vehicle and started running on the road while shouting. Hariom and his accompanying persons then fled from the spot. In an injured state he called his friends on mobile

and lodged a report with the Police Station Sadar, Nagpur. An F.I.R. came to be registered vide Crime No.232/2015, for the offence punishable under Sections 364, 326 read with Section 34 of the Indian Penal Code and Section 235 of the Bombay Police Act. The present application is filed under Section 482 for quashing the said F.I.R.

4. We have heard Mr. M.N. Ali, learned counsel for the applicant and Mr. N.H. Joshi, learned Additional Public Prosecutor for the non-applicant No.1. It is stated by learned counsel Mr. M.N. Ali that a compromise had arrived at between the applicant and the first informant i.e. non-applicant No.2 and on this ground alone he prays for quashing of the F.I.R. against the present applicant. Additional Public Prosecutor opposed the prayer.

5. In the backdrop of these facts we have perused the material on record. Section 364 of the Indian Penal Code speaks about kidnapping or abducting in order to murder and states that whoever kidnaps or abducts any person in order that such person may be murdered shall be punishable with imprisonment for life or rigorous imprisonment for a term which may extend to 10 years and shall also be liable to fine. Section 326 speaks about voluntarily causing grievous hurt by dangerous weapons or means and provides punishment for life or for with imprisonment of either description for

a term which may extend to 10 years and shall also be liable to fine. Admittedly, both the offences are serious in nature. The only ground seeking quashing of F.I.R. in question is regarding the alleged amicable settlement between the parties.

6. Mr. M.N.Ali, learned counsel for the applicant in support of his case has placed reliance on Judgment of **Naushey Ali and others Vs. State of U.P. and another**, reported in **2025 LiveLaw (SC) 190** in which the Hon'ble Apex Court has stated that mere inclusion of Section 307 of the I.P.C. in the F.I.R. or charge-sheet does not bar the High Court from quashing criminal proceedings based on settlement between the parties, provided the allegations do not substantiate the offence. He has also placed reliance in an unreported judgment of **H.N. Pandakumar Vs. The State of Karnataka**, delivered by the Hon'ble Supreme Court in Misc. Application No.2667/2024 in SLP (Cri.) No.895/2024. We have perused these judgments. The case of *Naushey Ali and others* (supra) was a case where the High Court refused to compound an offence punishable under Section 307 of the Indian Penal Code which was challenged before the Apex Court. In para 6 of the said judgment the Hon'ble Apex Court has set out the difference between compounding of offence and quashment of proceeding. The Hon'ble Apex Court in para 6 has held as under :

“6. At the outset, we want to set right the error that occurs in the short order of the High Court.

*The High Court has not appreciated the difference between compounding of an offence and quashment of proceedings. As explained in **Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303**, quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. This Court highlighting the difference, had the following to say :-*

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding

factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.” (Emphasis supplied)”

7. Thus, the Hon'ble Apex Court has said that quashing of offence or criminal proceedings on the ground of settlement between the offender and victim is not the same thing as compounding of offence. Only because there is a settlement for certain categories of offences, proceedings will not be quashed. This is on the premise that crimes that are harmful and effects the public at large and consists of wrong doing that seriously endangers or threatens the fabric of the society cannot be quashed only because the accused and the victim have amicably settled the matter.

8. We are also supported by the judgment of this Hon'ble Court in the case of **Dr. Sangeet Daf and another Vs. State of Maharashtra**, reported in **2021 ALL MR (Cri) 265**, in which para 18 thereof. This Court reproduced para 18 as under :

“18. This Court is a custodian of law. Rather it is the duty of each and every Court to minutely scrutinize the material brought before it and to give the verdict in accordance with law. Merely because the parties are coming before the Court and making the joint request that the chargesheet should be quashed, that alone cannot be the criteria for quashing the chargesheet. In this case, we will not allow ourselves to accede to the prayer made, especially when there is a report by three expert doctors who unequivocally recorded finding that there was no reasonable care and monitoring at the hands of the applicant No.1 and she was negligent.”

9. In the backdrop of this dictum of the Hon'ble Apex Court

facts stated (supra) resulting in lodging of F.I.R. need to be appreciated. There is nothing on record to show, except for bare averments in the application that the applicant and non-applicant No.2 have amicably settled the matter. Except for the statement of the applicant in the application that it was a petty loan dispute no material has been placed on record to substantiate the averments that the matter has been settled. As stated by us in the preceding para the offences alleged are of serious nature and cannot be said to be a petty loan dispute. Furthermore specific role is attributed to applicant.

10. It is very easy to say so by the applicant, but while exercising jurisdiction under Section 482 of the Criminal Procedure Code we are aware of the parameters as also the limitations defined by this Court as also the Hon'ble Apex Court from time to time. Quashing proceedings of such a nature would send bad signal to the society and would not be in the interest of public. The judgments cited by the applicant are not applicable to the present case inasmuch as the judgment of *Naushey Ali and others* (supra) purely speaks about Section 307 of the Indian Penal Code and is in fact a precedent for differentiating between the compounding of offence of quashment of proceedings. The facts in the judgment of *H.N. Pandakumar* (supra) are also different. Thus, the said judgments are not applicable to the present matter. We, therefore, refuse to exercise inherent

jurisdiction under Section 482 of the Criminal Procedure Code and reject the application filed by the applicant. Hence, I pass following order :

ORDER

- (i) The application is rejected.
- (ii) Order accordingly.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)

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