

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1774 OF 2024**

Safan Izhar Malik @ Babu And Anr.
V/S.

... Applicants

The State Of Maharashtra And Ors.

... Respondents

Ms. Prachita Vare, for the Applicants.

Ms. Mandar More, for the Respondent Nos. 2 and 3.

Mr. Tanveer Khan, APP for the Respondent – State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 18th FEBRUARY, 2026.

P.C. :

1. Heard Ms. Prachita Vare, learned Advocate for the Applicants, Mr. Tanveer Khan, learned APP for the Respondent-State and Mr. Mandar More, learned Advocate for Respondent Nos. 2 and 3.

2. This Application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023, is preferred by the Applicants for quashing the FIR bearing No. 0116 of 2023, dated 14.02.2023, registered with the Vakola Police Station for offences punishable under Section 307 read with 34 of the Indian Penal Code, 1860,

and the charge sheet No. 743/PW/2023, registered as Sessions Case No. 426 of 2023, pending before the Sessions Court, Mumbai.

3. Applicants are present in the Court and are identified by their Advocate, Ms. Prachita Vare. She tenders the photostat copies of the Identity Cards (2 nos.) of the Applicants, which are taken on record and marked with an “X” for identification.

4. Respondent Nos. 2 and 3 are present in the Court and are identified by their Advocate, Mr. Mandar More. He tenders the Photostat copies of the Identity Cards of Respondent Nos. 2 and 3, which are taken on record and marked with an “X-1” for identification.

5. Ms. Prachita Vare and Mr. Mandar More submit that the fight between the Applicants and Respondent Nos. 2 and 3 arose out of a misunderstanding and in response to sudden and grave provocation. They submit that they had no intention to cause harm to any or either of them. They submit that the Applicants and Respondent Nos. 2 and 3 have amicably resolved their dispute and, therefore, have no objection to the quashing of the criminal

proceedings.

6. Mr. Mandar More states that the Affidavit dated 22.10.2024, affirmed by Respondent Nos. 2 and 3 before the Notary R. R. Sharma, is placed on record, and the same is marked with an “X-2” for identification.

7. Respondent Nos. 2 and 3 state that the said Affidavit (X-2) is filed out of their own free will and without any pressure or coercion from any person. They state that the contents of the Affidavit (X-2) are as per their say. They reiterate their no-objection to the quashing of the criminal proceedings.

8. Mr Tanveer Khan, learned APP, submits that although the Sections charged are 307 read with 34 of the Indian Penal Code, 1860, the parties having amicably resolved the matter, no purpose would be served in continuing the criminal proceedings. He therefore submits that the criminal proceedings be quashed. He, however, insists on imposing costs.

9. Advocate Ms. Prachita Vare and Mr. Mandar More, on

instructions, submit that the Applicants and Respondent Nos. 2 and 3 shall deposit the appropriate costs.

10. The Hon'ble Supreme Court in the case of *Naushey Ali and Ors v. State of Uttar Pradesh*¹ and Anr. has observed as follows in paragraph 23:

23. Coming back to Laxmi Narayan [State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688 : (2019) 2 SCC (Cri) 706] , this Court has held that mere mention of Section 307 IPC in the FIR or the charge-sheet should not be the basis for adopting a hands-off approach. It has further held that it would be open for the court to examine as to whether incorporation of Section 307IPC is there for the sake of it or whether there is evidence to back it. It has been held that the courts may go by the nature of injuries sustained; as to whether the injuries are inflicted on the vital/delicate parts of the body and the nature of weapon used. It has also been clarified that such an exercise would be permissible after investigation and filing of charge-sheet/framing of charges or during the trial. (See para 15.4 of Laxmi Narayan [State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688 : (2019) 2 SCC (Cri) 706] .

11. Ms. Prachita Vare and Mr. Mandar More submit that no weapons were used in the assault and that there were no injuries to vital parts of the bodies of the persons involved in the incident.

1 2025 4 SCC 78

12. Considering the aforesaid circumstances, the nature of dispute, the matter being settled between the Petitioners and the Respondent Nos. 2 and 3, the statement of Respondent Nos. 2 and 3 in the Affidavit (X-2) and having regards to the pronouncements of the Hon'ble Supreme Court in the case of *Gian Singh vs State Of Punjab*², *Narinder Singh And Ors vs State Of Punjab And Anr*³ and *Parbatbhai Aahir @ Parbatbhai vs The State Of Gujarat*⁴, there is no impediment in allowing this Application.

13. In view of the above, Criminal Application No. 1774 of 2024 is allowed in terms of the prayer clause (a), subject to the condition precedent of payment of costs of Rs. 50,000/-. Consequently, the impugned FIR No. 0116 dated 14.02.2023, registered with the Vakola Police Station, and the Chargesheet No. 743/PW/2023, registered as Sessions case No. 426 of 2023, pending before the Sessions Court, Mumbai, are quashed.

14. The Applicants shall deposit the cost of Rs. 25000/-in the below-mentioned Account of the Central Police Welfare Fund,

2 2012 10 SCC 303

3 2014 6 SCC 466

4 2017 9 SCC 641

within a period of two weeks from today:-

Central Police Welfare Fund	
Director General M. S. Mumbai.	
Account No. :	914010029005759
Bank :	Axis Bank Limited
Branch :	Worli, Mumbai (M.H.), Mumbai – 400 025
IFSC Code :	UTIB0000060

15. The Respondent Nos. 2 and 3 shall deposit the cost of Rs. 25000/- in the below-mentioned Account of the High Court Employees Medical Welfare Fund, Mumbai, within a period of two weeks from today:-

The High Court Employees Medical Welfare Fund at Mumbai	
Account No.:	000120110001337
Bank :	Bank of India

Branch :	Mumbai Main
IFSC Code :	BKID00000001

16. The Compliance affidavit, along with proof of deposit, be filed in the Registry of this Court on or before 16.03.2026.

17. This Criminal Application is allowed in the above-said terms.

(ASHWIN D. BHOBE, J.)

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