
(2025) 11 BOM CK 1770

In the Bombay High Court, Nagpur Bench

Case No : Criminal Application No.1207 Of 2025

Haji Sheikh Hussain Abdul Jabbar

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 307, 452
Arms Act, 1959 — Section 4, 25
Code of Criminal Procedure, 1973 — Section 482

Citation : (2025) 11 BOM CK 1770

Hon'ble Judges : Nandesh S. Deshpande, J;Urmila Joshi-Phalke, J

Bench : Division Bench

Advocate : S.S. Ali, A.R. Rawalani, N.B. Jawade

Final Decision : Rejected

Judgement

Nandesh S. Deshpande, J

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

2. Both these applications are cross applications in a sense that parties to both these applications are identical. The applicant No.2 in Criminal Application (APL) No. 1207/2025, is the non-applicant No.2, in Criminal Application (APL) No. 1203/2025, i.e. the informant. Likewise, the applicant No.5, in Criminal Application (APL) No. 1203/2025, is the non-applicant No.2, in Criminal Application (APL) No. 1207/2025 i.e. the informant.

3. The Criminal Application (APL) No. 1207/2025, seeks quashment of the First Information Report No. 213/2015, lodged against the applicant at the behest of the non-applicant No.2, for the offences punishable under Sections 307, 143, 147, 148, 149, and 452, of the Indian Penal Code. Likewise, in Criminal Application (APL) No. 1203/2025, the application seeks quashing and setting aside of the First Information Report No. 214/2015, for the offence punishable

under Sections 307, 143, 147, 148, and 149 of the Indian Penal Code, with Section 4 and 25 of the Arms Act.

4. We have heard Shri Rawalani, learned Counsel for the applicant in Criminal Application (APL) No. 1207/2025, and also, Shri S.S. Ali, learned Counsel in Criminal Application (APL) No. 1203/2025. We have also heard Shri N.B. Jawade, learned Additional Public Prosecutor for the non-applicant No.1/State. Both these applications are challenging the cross First Information Reports mentioned supra, under various sections as mentioned above.

5. In both these applications, an affidavit-in-reply is filed by the respective non-applicant No.2, as also, a compromise deed entered into between the parties. The relevant extract of the affidavit-in-reply by the non-applicant No.2, in Criminal Application (APL) No. 1203/2025, is as under :

"6. That, deponent/respondent no. 2 and others is having no objection if Hon'ble court exercise inherent power and quash FIR no 214/2015 and its connected criminal case registered against accused no 1 to 12 registered for offences punishable u/s 307, 143, 147, 148, 149, 452 of IPC, which is pending before Hon'ble Special court (for differently-able persons, Sr. Citizen and Marginalized Section of Society and Addl. Sessions Judge-10, Nagpur bearing session case no 310/2018."

6. Similarly, in Criminal Application (APL) No. 1207/2025 an affidavit is filed by the non-applicant No.2, is as under :

"5. That, deponent/respondent no 2 and accused persons are cousin brother and relatives. The matter is amicably settled between both the parties. They have executed compromise deed and decided to withdraw counter cases of similar nature registered against both the parties. The incident is 10 years old and some of the accused are aged 75 years, 73 years, 66 years etc."

7. Learned Counsel for the respective parties, therefore submits that the matter has been settled, and therefore, prays for quashing of the said First Information Report.

8. We have carefully perused the First Information Report, and the consequent charge-sheets filed by the prosecution agency, after the conclusion of the investigation.

9. Learned Counsel for the parties placed reliance on the judgment of the Hon'ble Apex Court in Narinder Singh and others Vs. State of Punjab and another, 2014 SCC Online 265, as also, judgment of Naushey Ali and others Vs. State of U.P. and Anr., 2025(4) SCC 78.

10. As can be seen from the First Information Reports and the consequent charge-sheet, the offences complained of are mainly under Section 307 of the Indian Penal Code, which reads as under :

"307. Attempt to murder. - Whoever does any act with such intention or

knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. Attempts by life-convicts. - When any person offending under this section is under sentence of '[imprisonment for life]', he may, if hurt is caused, be punished with death."

11. While dealing with an identical situation, where an offence under Section 307 of the Indian Penal Code, is sought to be quashed on the basis of a settlement, parameters are laid down by the Hon'ble Apex Court in the judgment of Narinder Singh referred supra.

"(VI) Offences under Section 307, I.P.C. would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 I.P.C. 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 I.P.C. is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 I.P.C. 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/deleicate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship."

12. Similarly, in the judgment of Naushey Ali, referred supra in paragraph Nos. 10 and 11, which is apropos to reproduce the same as under :

"10. In State of Madhya Pradesh v. Laxmi Narayan and Others, (2019) 5 SCC 688, after discussing the ratio in Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466 and other judgments, this Court held:-

15.....

15.1.....

15.2.....

15.3.....

15.4. Offences under Section 307 IPC and the Arms Act, etc., 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 individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. 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 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 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 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/delicate parts of the body, nature of weapons used. etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore. the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove:

11. Before we apply this judgment to the facts, it will be worthwhile to recall the observations of Sikri, J. in Narinder Singh (supra):-

"26. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well.. "

13. In the judgment of State of Madhya Pradesh Vs. Laxmi Narayan and others reported in [2019] 2 S.C.R. 864, after elaborately considering the entire law on the subject, the Hon'ble Supreme Court has stated in paragraph No. 9.1 as under:

"9.1 However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C. From the impugned judgment and order, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgment and order passed by the High Court, it appears that the High Court has mechanically quashed the FIR, in exercise of its powers under Section 482 Cr.P.C. The High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of State of Maharashtra vs. Vikram Anantrai Doshi, (2014) 15

SCC 29, the Court's principal duty, while exercising the powers under Section 482 Cr.P.C. to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence. In the case at hand, the High Court has not at all taken pains to scrutinise the entire conspectus of facts in proper perspective and has quashed the criminal proceedings mechanically. Even, the quashing of the FIR by the High Court in the present case for the offences under Sections 307 and 34 of the IPC, and that too in exercise of powers under Section 482 of the Cr.P.C. is just contrary to the law laid down by this Court in a catena of decisions."

14. As observed by this Court in the case of *State of Maharashtra Vs. Vikram Anantra Doshi*, (2014) 15 SCC 29, the Court's principal duty, while exercising the powers under Section 482 of the Criminal Procedure Code, to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement.

15. Furthermore, by relying on the judgment of *Gian Singh and Narinder Singh*, this Court observed that when it comes to a question of compounding an offence under Sections 307, 294 and 34, of the Indian Penal Code, by no stretch of imagination can it be held to be an offence as between the private parties simpliciter. Such offences will have a serious impact on society at large. The accused are facing trial under Section 307 as the offences are definitely against society, and the accused will have to necessarily face trial and come out unsketched by demonstrating their innocence. The same view has been reiterated in *State of Madhya Pradesh Vs. Deepak*, (2014) 10 SCC 285 and *State of Madhya Pradesh Vs. Manish*, (2015) 8 SCC 307.

16. Thus, the common thread emerges from perusal of these judgments that the High Court should be slow enough to quash the First Information Report and the charge-sheet only on the basis of the settlement for the offences punishable under Section 307 of the Indian Penal Code and the Arms Act. Thus, such power is not to be exercised in those prosecutions which involves heinous and serious offences of mental depravity or in offences like murder, rape, dacoity, as such offences are not private in nature and have a serious impact on society.

17. Furthermore, even if in the First Information Report No.214/2015, offences punishable under Sections 307, 143, 147, 148 and 149 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act are invoked, however in subsequent charge-sheet bearing No.01/2016 filed, only offence under Section 334 of the Indian Penal Code is mentioned. Furthermore, brief facts as mentioned in the Final Report Form, there is mention of use of arms in the incident. However, for reasons best known to prosecuting agency, it has chosen to file a non-cognizable report. This fact is elaborately recorded by the trial Court in its order dated 27/06/2017.

"4. Having a leaf into the report and the statement of the witnesses, particularly Juber Ahmad, Rehan Ahmad, Abdul Sattar, recorded u/s 161, CrPC the prima facie offence u/s 143, 147, 148, 307 r/w 149, 1PC and u/s 4/25, Arms Act has been made out. At the threshold stage the police could not have concluded regarding the aspect of provocation, which is an element to be dealt in the course of evidence and trial. So also, the police could not have made their opinion in view of the cross report filed by the accused against the informant and others. Both the reports and cases are different and the material of one case could not have been considered in another case. The report and statements clearly spell out that victim has been wounded on his head with a sword and so also informant saved himself from the ghastly attack of sword on his neck. It could also be read from the report that accused were armed with arms and one of them, namely Abdul Hanif, accused number 12 exhorted other accused to kill the informant and others. The vital aspect for an offence u/s 307, IPC is the intention and not the nature of injury. Perhaps, there may not be any injury still having an intention to kill would make out a case u/s 307, IPC. Viewed from this angle, the opinion of medical officer cannot be given much weight at this juncture of the case.

5. In evaluation I am of the view that prima facie a case u/s 143, 147, 148, 307 r/w 149, IPC and u/s 4/25, Arms Act has been made out qua accused. Hence, accused needs to be summoned to answer the charge and face the trial for the offences u/s 143, 147, 148, 307 r/w 149, IPC and u/s 4/25, Arms Act. Accordingly, issue summons to accused number 1 to 12 to appear and furnish bail of Rs 15,000/- each for an offence u/s 143, 147, 148, 307 r/w 149, IPC and u/s 4/25, Arms Act. Summons shall be returnable on 27.07.2017. Administrative office of this Court is directed to register this case in the nature of warrant trial."

18. Furthermore, the First Information Report bearing No.213/2015 and the corresponding charge sheet invoke offences punishable under Sections 307, 143, 147, 148, 149, 452 of the Indian Penal Code, read with Sections 4 and 25 of the Arms Act. In the indoor inquiry certificate, assault with head injury is shown. A knife is recovered from the applicant No.4. A sword is recovered from applicant No.3. An iron rod is recovered from applicant No.7. A kukri has also been recovered from the shop. All these weapons and clothes have blood stains over them. Furthermore, the injury report clearly states that injuries are possible with some of these weapons.

19. In the light of the law laid down by the Hon'ble Apex Court, if we analyze the material placed on record, in Criminal Application (APL) No. 1207/2025, the injury report of Mohd. Asif Mohd. Arif, shows a head injury, while in Criminal Application (APL) No. 1203/2025, the injury report also shows a head injury. However, as far as the First Information Report No. 214/2015 is concerned, Sections 4 & 25 of the Arms Act, are also invoked. In the report of non-applicant No.2 in Criminal Application (APL) No. 1203/2025, concerned there is specific reference of use of sword and injuries were caused due to it. Even the

statements of witnesses specify about use of sword.

20. In view of the observations of the Hon'ble Supreme Court, it can be seen that the power under 482 is not to be exercised to stifle a legitimate prosecution only on the basis of a settlement between the parties. In the present case, as already discussed supra, dangerous weapons have been found and recovered from the accused persons in both matters. The statements of witnesses recorded during the course of the investigation refer to use of those weapons by the accused persons. The clothes of the accused persons have been found to be having blood stains. In that view of the matter, we are of the considered opinion that only because the matter has been settled between the parties, it would not be proper to quash the First Information Report and the consequent charge-sheets. The judgments of Narinder Singh and Naushey Ali (supra), even state that the offences under Section 307 of the Indian Penal Code would fall in heinous and serious offences. It is true that only because offence punishable under Section 307 is invoked in the matter, that would not deter this Court from exercising jurisdiction. However, looking to the fact that dangerous weapons have been seized from the accused persons as discussed above, it would not be a proper case to exercise inherent jurisdiction under Section 482 of the Criminal Procedure Code. We therefore proceed to pass the following order:

ORDER

Both applications are rejected.