

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 1013 of 2023**

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DEEPAK NARAYANBHAI SUVA & ORS.
Versus
STATE OF GUJARAT

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Appearance:

MR VIRAT POPAT with MS SHIVANGI D MADHAD(13116) for the
Applicant(s) No. 1,2,3,4,5
MR HARDIK MEHTA, ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1
MS SHWETA LODHA for the Complainant & Victims

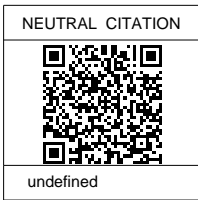
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CORAM: HONOURABLE MS. JUSTICE GITA GOPI

Date : 19/06/2024

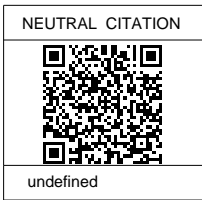
ORAL ORDER

- RULE.** Learned Additional Public Prosecutor Mr. Hardik Mehta waives service of notice of Rule on behalf of the respondent - State and learned Advocate Ms. Shweta Lodha waives service of notice of Rule on behalf of the complainant and victims.
- Learned Advocate for the applicants Mr. Virat Popat makes a prayer for amending the relief prayed for in this Application. Permission as prayed for is granted. The same be carried out forthwith.
- By way of this application, the prayers are made to



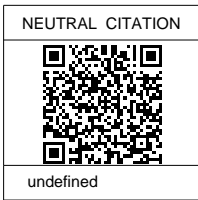
the extent of quashing and setting aside the impugned order dated 21.07.2022 framing the charge passed by the learned 11th Additional Sessions Judge at Dhoraji, Rajkot in connection with Sessions Case No.18 of 2022 arising out of the First Information Report (FIR) being C.R. No.11213064220182 of 2022 lodged with Upleta Police Station, Rajkot (Rural) for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 325, 338, 504 and 506(2) of the Indian Penal Code (IPC) and under Section 135 of the G.P. Act, as well as to stay the above impugned order.

4. Learned Advocate for the applicants Mr. Virat Popat states that the facts of the case does not reflect any charge to be framed under Section 307 of the IPC. It is further submitted that the exercise which has been contemplated under Section 226 of the Cr.P.C. prior to framing of charge when in a case being pursued by the prosecution was not followed, the application was rejected and prior to framing of charge, the Discharge Application was moved which came to be rejected and on the very same day, the learned Additional Sessions Judge framed the charge against



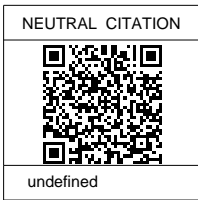
the accused.

5. It is further submitted that it was a dispute which had arisen out of some misunderstanding with regard to sand lease. On 27.02.2022, when the witnesses – Chintan Bhikhabhai Kangad and Kishan Khengarbhai Dangar were going towards Village Nilakha on their Hero Honda Splendour motor cycle, it was alleged that the accused had come with their Scorpio Car and keeping grievance in mind regarding the sand lease, dashed the above motor cycle. It is alleged that the said act was with an intention to do away with the witnesses and the accused had been arraigned under Sections 307 and 149 of the IPC, who have formed unlawful assembly for the execution of the common intention. It is also submitted that no injury has been caused by such an act while the offences under Sections 324 and 326 read with Sections 149, 504 and 506(2) of the IPC were also alleged with the accused No.2. It is alleged that the accused No.1 was armed with an iron pipe and the accused No.2 with a wooden stick had assaulted the witnesses and had caused injury in the hands and legs resulting into fracture and also threatened the witnesses with their



life.

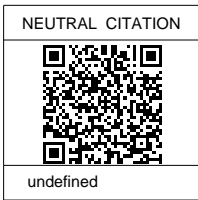
6. Learned Advocate Mr. Virat Popat has further submitted that both the sides resolved the dispute. The witnesses and the complainant have made a prayer for compounding the offences and the injured as well as the complainant have filed their Affidavits of settlement stating that the parties have amicably settled and have no objection if the application is allowed and the charge framed be quashed and set aside.
7. Learned Advocate Ms. Shweta Lodha appearing for the complainant and the victims affirms the fact of settlement of dispute advanced by learned advocate Mr. Virat Popat appearing for the applicants.
8. Learned Additional Public Prosecutor Mr. Hardik Mehta submitted that any proceedings should be quashed in accordance with the guidelines of the Apex Court and the parameters laid down therein.
9. Today, the complainant – Vikram Vibhabhai Jallu as well as the witnesses – Chintan Bhikhabhai Kangad



and Kishan Khengarbhai Dangar have filed their individual Affidavits stating that the settlement has been arrived at by the intervention of responsible community elders so as to maintain peace and order in the locality and also that business relations continue between the parties.

10. This Court has heard the learned Advocates appearing for the respective parties and has perused the material on record. This Court has verified from the complainant as well as both the witnesses who are present before this Court about the above settlement. They have stated that it was a misunderstanding regarding the business and therefore, a complaint came to be filed where the vehicle being a four wheeler (Scorpio Car), Section 307 of the IPC was invoked but infact there was no such injury with the vehicle.

11. In the case of **State of Madhya Pradesh v. Laxmi Narayan and Others** reported in **(2019) 5 SCC 688**, the Apex Court had the occasion to consider the issue as to whether an FIR lodged for the 2 offences



punishable under sections 307 and 34 IPC could be quashed on the basis of the settlement between the parties. While considering the said issue, the Apex Court observed in para-13 thus:

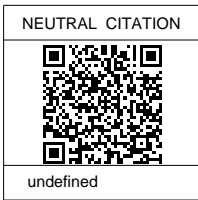
“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

(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 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;

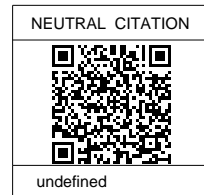
(iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(iv) 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/ delegate 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 paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

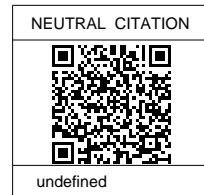
(v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the



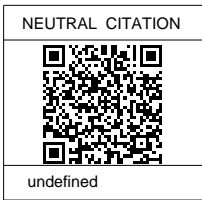
offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

12. In the above case of **Laxmi Narayan and Others** (supra), the decision in the case of **Gian Singh v. State of Punjab and Another** reported in **2012 (10) SCC 303** was considered where the offences which can be considered compoundable should only be entertained. In paragraph-61 of the said judgment, it has been observed thus:

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard

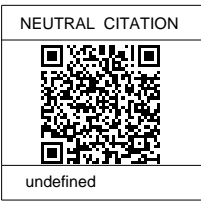


to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding



would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

13. In the present case, the matter is regarding business relations between the parties. All of them hail from Upleta, Rajkot. The allegations to invoke the provision of Section 307 of IPC is with regard to the use of the four wheeler (a Scorpio Car) but it noted that no vehicular injury has been caused to the witnesses by the Car. Further, Section 324 of IPC metes out punishment when there is voluntarily hurt caused by a dangerous weapon or means. Here no such weapon has been used for stabbing or has been found in the possession of the accused, whereas the weapon alleged to have been used is an iron pipe and wooden sticks. Thus, in view of the above, Section 324 of IPC would not be attracted. Section 325 of IPC is punishment for the offence causing grievous hurt.



14. In the result, the application is allowed. The impugned order dated 21.07.2022 framing the charge passed by the learned 11th Additional Sessions Judge at Dhoraji, Rajkot in connection with Sessions Case No.18 of 2022 qua the applicants are quashed and set aside. The applicants stand acquitted.

15. Rule is made absolute to the aforesaid extent. Direct Service is permitted.

CAROLINE

Sd/-
(GITA GOPI, J)