

Rahul and Others Vs. State of Maharashtra

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Court : Mumbai Nagpur

Decided On : Jun-08-2016

Judge : B.R. Gavai & V.M. Deshpande

Appeal No. : Criminal Application (APL) No. 44 of 2016

Appellant : Rahul and Others

Respondent : State of Maharashtra

Judgement :

Oral Judgment: (B.R. Gavai, J.)

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.
2. The applicants have approached this Court for quashing and setting aside Summary Criminal Case No.719/2010 pending before the Court of 5th Judicial Magistrate First Class, Amravati for the offence punishable under Sections 143, 147, 148, 149, 452, 324, 323, 506 of the Indian Penal Code read with 4 and 25 of the Arms Act.
3. The first information report came to be lodged on the oral report of applicant no.7 on 10.05.2010 stating therein that applicant Nos.1 to 6 who had some financial dispute with the son of the first informant, had come to the house of applicant no.7 armed with the hockey sticks and a sword. It is also stated in the

FIR that when the first informant tried to take her son inside the house and closed the door, one of the accused assaulted her with the sword due to which she sustained serious injuries. It is also alleged that the applicant Nos.1 to 6 had come in the house, ransacked the same and also stolen certain properties.

4. An attempt was made before the learned trial Judge for compounding the case. However, since some of the offences are not compoundable, the learned Magistrate refused to permit the parties to compound the case.

5. The parties are present in the Court. We have personally interviewed applicant no.7. She has reiterated that the matter is settled between the accused persons and herself. She states that there is no coercion or threat on her. She further states that the accused persons are the friends of her younger son and, therefore, taking into consideration the future of the accused who are all young persons, she has decided to give an end to the criminal proceedings.

6. The Apex Court in the case of Narinder Singh and ors. vs. State of Punjab and another reported in (2014) 6 Supreme Court Cases 466 has held that even in cases where an offence is under Section 307 of the Indian Penal Code, taking into consideration the various factors that have been laid down in the said case, the Court can exercise the powers under Section 482 of the Code of Criminal Procedure and give an end to the criminal proceedings. One of the factors that has been laid by the Apex Court is the stage of the proceeding. In the present case though the evidence of the complainant is recorded in the year 2012, nothing much has progressed further.

7. The perusal of the medical certificate would reveal that the injuries sustained by applicant no.7 cannot be said to be on vital part of body, inasmuch as the injuries are on wrist. It appears that the offence was committed by applicant Nos.1 to 6 when they had not reached the age of maturity.

8. One of the factors the Apex Court has laid down is the possibility of conviction being remote. We find that in the present case when the complainant herself does not wish to prosecute the proceedings, the possibility of conviction is remote and bleak. The Apex Court has further held that the Court may 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.

9. In the present case, as already stated hereinabove, applicant Nos.1 to 6 are the friends of the younger son of applicant no.7. It appears that the settlement between the parties would bring a harmony in the society and improve the relationship between the parties.

10. In that view of the matter, the present case is a fit case wherein this Court can exercise the jurisdiction under Section 482 of the Code of Criminal Procedure. In that view of the matter, the Rule is made absolute in terms of prayer clause (i).

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