

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 382 OF 2015**

VASANT S/O PARAJI TAPSE
VERSUS
STATE OF MAHARASHTRA & ANR

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Advocate for Applicant : Mr. Jadhav Hanumant P.
APP for Respondent/State : Mr. S. G. Karlekar
Advocate for Respondent no.2 : Mr. N.R. Thorat

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.
Dated: March 10, 2015

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PER COURT :-

Heard.

2. This application is filed with following prayer :-

"C. To quash and set aside FIR dated 30.12.2014 and Crime No. 157/2014 registered with Police Station, Yusufwadgaon for offence punishable u/sec 304(A) of Indian Penal Code may kindly be suspended."

3. In pursuant to the notice issued to the respondents, the complainant Hanumant Shivaji Nikam has filed the affidavit. The paras 3 and 4 read thus :-

"3. I say and submit that, in view of my complaint dated 30.12.2014 complaint came to be registered against accused Vasant Paraji Tapse. I wish to withdraw all the allegations made against the

accused Vasant Paraji Tapse. I further say and submit that, in my complaint dated 30.12.2014 I have never made allegations of death due to negligence of accused but, police pressurized me to sign complaint and I am ill-treat person therefore, offence is registered against present applicant matter is amicably settled no any allegations against the accused Vasant Paraji Tapse my nephew Bhausahab is died in accident in well I have no any personal grudge and applicant is my son in law and resides at Chandan Sawargaon, Tq. Kaij, Dist. Beed with his family.

4. I say and submit that, now I would like to settle the matter amicably. I say and submit that, we are having no enmity with each other of whatsoever nature and for maintaining good relation in future we have decided to compromise the matter and therefore, I am having no objection to quash FIR bearing No. 157/2014 registered with Police Station Yusufwadgaon, Tq. Kaij, Dist. Beed for the offence punishable u/sec 304(A) of Indian Penal Code. Therefore, I kindly request this Hon'ble Court be pleased to quash and set aside the said FIR."

4. The complainant was present before this Court on 20th February, 2015. He stated before this Court that, the settlement between the parties is with free will and without any coercion. The hearing of the matter was deferred so as to cause appearance of parents of the deceased before this Court and file affidavit. Accordingly, the father of the deceased Rajabhau Shivaji Nikam has filed his affidavit. Para nos. 2 to 4 of the said affidavit read thus :-

"2) I further say and submit that, the respondent No.2 is my brother who is party and filed affidavit and contended matter is settled between the parties out of Court and I also support to his affidavit and

this matter is settled amicably out of Court but, as per this Hon'ble Court's instructions I am filing this affidavit in reply in Criminal Application No. 382/2015 by way of liberty from this Hon'ble Court. I have filed my affidavit before this Hon'ble Court. I say and submit that, I am filing this present affidavit in reply may kindly be accepted.

3) I say and submit that, in view of complaint of my brother dated 30.12.2014 complaint came to be registered against accused Vasant Paraji Tapse. I also wish to withdraw all the allegations made against the accused Vasant Paraji Tapse. I further say and submit that, in complaint dated 30.12.2014 I have never made allegations of death due to negligence of accused but, police taken a signature of me on blank paper and submitted statement of me before this Hon'ble Court but, matter is amicably settled and I am not interested to continue criminal prosecution against the present accused and I am illiterate person therefore, offence is registered against present applicant matter is amicably settled no any allegations against the accused Vasant Paraji Tapse my son Bhausahab died in accident in well I have no any personal grudge and applicant is my cousin son in law and resides at Chandan Sawargaon, Tq. Kaij, Dist. Beed with his family.

4) I say and submit that, now I would like to settle the matter amicably. I say and submit that, we are having no enmity with each other of whatsoever nature and for maintaining good relation in future we have decided to compromise the matter and therefore, I am having no objection to quash FIR bearing No. 157/2014 registered with Police Station Yusufwadgaon, Tq. Kaij, Dist. Beed for the offence punishable u/sec 304(A) of Indian Penal Code. Therefore, I kindly request this Hon'ble Court be pleased to quash and set aside the said FIR."

6. On interacting with Rajabhau, he stated that,

the matter is amicably settled with free will and without coercion and he relied upon the averments in the affidavit.

7. Mother of the deceased Meera Rajabhau Nikam has also filed affidavit with similar contentions like Rajabhau Nikam as stated in his affidavit. She also stated that, without any coercion and free will the settlement has been arrived between the parties.

8. In the light of the affidavits filed by the original complainant, mother and father of the deceased, no fruitful purpose will be served by keeping further proceedings pending based upon the First Information Report dated 30.12.2014 bearing Crime No. 157/2014 registered with Police Station, Yusufwadgaon for offence punishable u/sec 304(A) of Indian Penal Code. The continuation of the further proceedings would be exercise in futility.

9. The Apex Court in the case of **Gian Singh Vs. State of Punjab and another**¹ has observed that, the High Court can exercise jurisdiction under Section 482 of the Cr.P.C. by accepting the settlement to secure ends of justice and to avoid abuse of process of Court.

10. In the light of the parameters laid down by the Supreme Court, the settlement deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause `C' and same stands disposed of.

¹2012(4) Bom.C.R.(Cri) 428

11. Rule made absolute accordingly.

(**A.M. BADAR, J.**)

(**S.S. SHINDE, J.**)

sga/-

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