

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

CRIMINAL WRIT PETITION NO.700 OF 2015

AMOL ASHOKRAO PAWAR @ DESHMUKH AND
OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr.Deshmukh Bhausahab S
APP for Respondents/State: Mr.A.V. Deshmukh.
Advocate for Respondent 2 : Mr.Shinde Digambar B.

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CORAM : S.S. SHINDE & A.I.S. CHEEMA, JJ.

Dated: JULY 06, 2015

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Heard learned Counsel for the parties. The petitioners and original complainant have prayed for quashing FIR on the basis of settlement arrived at between them. Perused the allegations in the FIR and the version about actual incident, in the reply filed by the complainant. An allegation in the FIR is to the extent that the petitioners who are original accused, assaulted the complainant by fist and kick blows, and forcibly removed Rs.9300/- from pocket of complainant and also the cell phone of Samsung Company. Said version appearing in the FIR has been totally changed in the affidavit filed before this Court by the

respondent No.2. In the affidavit, it is stated that on 19.05.2015, there was exchange of words between complainant and petitioners and that, after few times, he came to know that his mobile phone and an amount of Rs.9300/- disappeared, which he did not receive at that time and the complainant was under impression that, the petitioners might have stolen the same. Under that suspicion, the complaint was filed at Kranti Chowk Police Station.

2 We deprecate such conduct of the complainant, stating totally different facts about the actual occurrence of the alleged incident, in the affidavit. We also deprecate the conduct of accused meddling with evidence to bring about such affidavit. It would have been different matter, if the parties filed the affidavit with a prayer to accept their compromise / settlement on the basis of facts / allegations as they appeared in the FIR without twisting the same. However, as already observed, the parties have distorted the version totally in the affidavit than the one appearing in the FIR.

3 In that view of the matter, we decline to accept the prayer of the parties to quash the FIR / Crime No.I-251/2015 dated 19.5.2015 registered at Kranti Chowk Police Station, Aurangabad for the offences punishable under Sections 394, 323, 504, 34 of IPC on the basis of compromise / settlement. Hence, the said prayer deserves to be rejected.

4 In that view of the matter, petition stands

rejected.

However, we make it clear that, observations herein are restricted to adjudication of prayer of the parties for quashing FIR on the basis of settlement and nothing more. The trial Court shall not get influenced by such affidavit filed here and the said observations and decide the matter on its merits, uninfluenced by said observations.

(A.I.S. CHEEMA, J)

(S.S. SHINDE, J)

kadam/