

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CRIMINAL JURISDICTION
CRIMINAL APPLICATION NO.650 OF 2015

Mr. Jayesh Mohan Valanju)... Applicant
V/s.
The State of Maharashtra & Ors.)... Respondents

Mr. Satyaram R.Gaud, advocate for Applicant.

Mr. Mayur D. Sapkale, advocate for Respondent Nos.2 to 5.

Mr. K.V.Saste, APP for Respondent-State.

**CORAM: R.V.MORE &
K.R.SHRIRAM, JJ.
DATED : 7.8.2015.**

P.C. :

At the outset, Mr. Mayur Sapkale, an advocate undertakes to file vakalatnama on behalf of respondent nos.2 to 5. Undertaking is accepted.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1908 to quash and set aside the F.I.R. bearing C.R.No.133 of 2005 registered with Agripada Police Station at the instance of respondent no.2 for the offences punishable under Sections 323, 324, 504 read with Section 34 of the Indian Penal Code, 1860.

3 The said F.I.R. was registered against four accused persons including the present applicant. All the accused came to be arrested. Investigation was complete and charge-sheet also came to be filed which came to be numbered as Criminal Case No.149/PW/2005 on the file of learned Additional Chief Metropolitan Magistrate, Bombay.

4 Since the present applicant and another accused by name Mangesh Jaitapkar were not available for trial, trial in respect of these two accused came to be separated and the other two accused namely, Girish Arolkar and Prashant Kamble were prosecuted. The learned Additional Chief Metropolitan Magistrate disposed of Criminal Case No.149/PW/2005 by an order dated 18.5.2013 whereunder Girish Arolkar and Prashant Kamble came to be acquitted. So far as the present applicant and another absconding accused namely Mangesh Jaitapkar are concerned, the learned Additional Chief Metropolitan Magistrate, Mumbai directed Investigation Officer to file separate charge-sheet against these accused persons.

5 It is the applicant's case that he was not at all absconded and he is very much residing at the same address, which was shown in the charge-sheet itself. He submits that he came to know about the proceedings of C.C.No.149/PW/2005 in 2015 itself.

6 Parties thereafter settled their disputes amicably and have approached this Court for quashing the subject F.I.R. by consent.

Respondent no.2 is the complainant and respondent nos.3,4 and 5 are the injured witnesses. They have filed common affidavit. In paragraph 6 thereof, they have given joint no objection for quashing and setting aside the subject FIR . Respondent nos. 2 to 5 are present in the Court. On specific query, they submitted that contents of the said affidavit are explained to them in vernacular language and they have understood the same. They also state that they have no objection to quash and set aside the subject F.I.R. Parties are staying in the same vicinity and in order to maintain cordial relations between them, they have entered into compromise. We are of the opinion that quashing of the subject F.I.R would be in the interest of applicant as well as respondent nos.2 to 5. Allegations in the subject FIR are that the applicant and another absconding accused Mangesh Jaitapkar have assaulted respondent nos.3 to 5 by a weapon namely, stick. Injuries suffered by these witnesses are simple. Dispute between the parties is private in nature. In view of the law laid down by the Apex Court in the case of **Madan Mohan Abbot v. State of Punjab [(2008) 4 SCC 5820]**, we find that no purpose would be served by keeping the criminal proceeding pending and burdening the already overburdened courts.

7 Considering the nature of the offence as well as the no objection given by the respondent nos.2 to 5, and in the light of the principles laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we are of the considered view that continuation of the criminal proceedings in C.R.No.133 of

2015 would cause great prejudice and hardship to the applicant and would amount to abuse of process of the court.

8 Application is, accordingly, allowed subject to cost of Rs.10,000/- to be paid by the applicant. The applicant shall deposit the costs with Central Police Welfare Fund, A/c.914010029005759 Axis Bank, IFS Code-UTI B0000060 and thereafter produce the receipt thereof on the file of this application within a period of two weeks from today, failing which, the criminal application shall stand dismissed automatically without further reference to the Court.

9 Subject to above, the criminal application stands disposed of.

(K.R.SHRIRAM, J.)

(R.V.MORE, J.)