

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.315 OF 2016

Usman Imran Sayyed,
R/o.Malad (East), Mumbai-400097

Petitioner

versus

1. The State of Maharashtra

2. Nitin Prakash Salunke,
R/o.Kurar Village, Malad (East),
Mumbai-400097

Respondents

AND

WRIT PETITION NO.328 OF 2016

Nitin Prakash Salunke,
R/o.Kurar Village, Malad (East),
Mumbai-400097

Petitioner

versus

1. The State of Maharashtra

2. Almas Altaf Khan,
R/o.Goregaon East, Mumbai-400065

Respondents

Mr.Sharad Rai for Petitioner in WP No.315/2016 and for
Respondent no.2 in WP No.328/2016.

Mr.Vivek Singh i/by Mr.A.P.Maurya for Petitioner in WP
No.328/2016 and for Respondent no.2 in WP No.315/2016.

Mrs.M.M.Deshmukh, APP, for State in WP No.315/2016.

Mr.K.V.Saste, APP, for State in WP No.328/2016.

CORAM : NARESH H. PATIL AND
P.D.NAIK, JJ.

DATE : 08 June 2016

PC :

1. Rule. Learned counsel for Respondent no.2 and learned APP for State waives service in respective petitions. Taken up for final disposal with consent of both the parties.

2. Since the issues involved in both these petitions are interconnected, the same are disposed of by a common order. The parties in both these petitions have amicably settled their disputes inter-se and have, therefore, sought quashing of the criminal proceedings, which are subject matter of these petitions.

3. The Petitioner in Criminal Writ Petition No.315 of 2016 is impleaded as an accused in CR No.270 of 2015. The first information report ('FIR') was registered at the instance of second Respondent on 6 September 2015 with Kurar Police Station, Mumbai for offences under Sections 326, 323, 504, 34 of Indian Penal Code ('IPC') and Sections 37(1)(a) and 135 of Maharashtra Police Act. The second Respondent has alleged that on 5 September 2015, he had tried to intervene while two persons were quarreling on the road. It is further stated that on account of the said intervention, the accused assaulted the first

informant by using bamboo stick, which have resulted into fracture to his hand. On the basis of his complaint, the impugned FIR was registered.

4. The Petitioner in Criminal Writ Petition No.328 of 2016 was impleaded as an accused in CR No.271 of 2015. The FIR was registered with Kurar Police Station, Mumbai on 6 September 2015 for offences under Sections 354B and 504 of IPC. The said FIR was registered at the instance of the second Respondent. It is alleged in the said FIR that on 5 September 2015, the accused had touched the complainant inappropriately which resulted in outraging her modesty. The said accused was assaulted by the person accompanying the complainant/second Respondent. Hence, the FIR was registered at the instance of second Respondent with the aforesaid Police Station.

5. It is pertinent to note that the second Respondent in Writ Petition No.315 of 2016 was impleaded as an accused in CR No.271 of 2015, which is subject matter of challenge in Writ Petition No.328 of 2016. It is submitted that the parties involved in both these instances are residing in the same locality and the incident had occurred on account of altercation between them. It is further submitted that senior members of the locality had intervened and the disputes amongst both the parties have been amicably settled. The complainants in both the FIRs are not interested in pursuing the prosecution.

6. The second Respondent in Criminal Writ Petition No.315 of 2016 has tendered an affidavit dated 12 April 2016 before this Court. In the said affidavit it is stated that he is the complainant in CR No.270 of 2015 and that he has resolved the differences with the accused and his associates. It is further stated that the impugned FIR may be quashed with his consent. The said affidavit dated 12 April 2016 is taken on record and marked "X" for identification.

7. The second Respondent in Criminal Writ Petition No.328 of 2016 has also tendered an affidavit before this Court dated 12 April 2016. It is stated that the senior members of the vicinity have intervened for settling the dispute so as to maintain peace and harmony amongst themselves. In the said affidavit she has consented for quashing the impugned FIR. The said affidavit is taken on record and marked "X-1" for identification.

8. We have perused the FIRs and other documents annexed to these petitions. We have also referred to the affidavits submitted by the complainants in respective complaints. From the documents on record it is apparent that the parties have settled their disputes and do not wish to pursue the proceedings against each other. The disputes which are subject matter of the FIRs under challenge, are individual in nature. In the case of

Gian Singh Vs. State of Punjab and another¹, the Apex Court has observed that inherent powers under Section 482 of the Code of Criminal Procedure, 1973 can be exercised for quashing the proceedings on account of amicable settlement of disputes, which are of private nature. We are satisfied that the parties involved in the proceedings have arrived at amicable settlement and since they are residing in the same vicinity, they do not wish to pursue the proceedings against each other with a view to maintain harmony and peace.

9. In view of the aforesaid circumstances, we are inclined to invoke the powers under Article 226 of the Constitution of India as well as inherent powers under Section 482 of the Code of Criminal Procedure and quash the FIRs which are subject matter of both the petitions.

10. Accordingly, we pass following order :

(a) FIR dated 6 September 2015 registered with Kurar Police Station, Mumbai vide CR No.270 of 2015, which is subject matter of Writ Petition No.315 of 2016, is quashed and set aside;

(b) FIR dated 6 September 2015 registered with Kurar Police Station vide CR No.271 of 2015, which is subject matter of Writ Petition No.328 of 2016, is quashed and set aside;

¹ (2012)10-SCC-303

(c) All concerned to act on an ordinary copy of this order duly authenticated by the registry of this Court;

(d) Both the petitions stand disposed of in above terms, with no order as to costs.

(PD.NAIK, J.)

(NARESH H. PATIL, J.)

MST