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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.376 OF 2016 WITH
CRIMINAL APPLICATION NO.235 OF 2016

Kishore Ramesh Shetty ...Applicant
vs.
Senior Inspector of Police through
Bangur Nagar Police Station & Ors. ...Respondents

WITH
CRIMINAL APPLICATION NO.235 OF 2016

Tanvir Alam & Ors. ...Applicants
vs.
Senior Inspector of Police through
Bangur Nagar Police Station & Ors. ...Respondents

Mr.Akshay Ajit Shah for the applicant in
Cri.Appln.376/2016 and for respondent No.3 in
Cri.Appln.No.235/2016
Ms Aparna Wagle i/b Waquar Ahmad for the applicant
in Cri.Appln.No.235/2016 and for the respondent No.3
in Cri.Appln.No.376 of 2016
Ms M.H.Mhatre, APP for respondent Nos.1 and 2 in
both the applications.

CORAM : A.S.OKA, &
A.A.SAYED, JJ.
DATE : JUNE 24, 2016

P.C.:

1 Rule. In criminal application No.376 of 2016,
the learned counsel for the respondent Nos.3 to 14
waives services. The learned APP waives service for
the respondent Nos.1 and 2. In criminal application
No.235/2016, learned APP waives service for

respondent Nos.1 and 2 and the learned counsel for the respondent No.3 waives service. Forthwith taken up for final disposal.

2 The criminal application No.376 of 2016 has been filed for quashing FIR registered on 21st July 2015 at the instance of the respondent No.4 in relation to the incident of 21st July 2015. According to the case of the respondent No.4 in Criminal application No.376 of 2016, he along with others were sitting in a Restaurant situated at Link Road, Goregaon (West), Mumbai. From the FIR it appears that there was altercation between the respondent No.4 and the Waiters in the hotel. The allegation is that the altercation led to incident of alleged assault by the Waiters in the hotel and the other staff of the hotel.

3 Criminal Application No.235 of 2016 is filed for quashing the first information report in relation to the same incident registered at the instance of the respondent no.3 who is one of the applicants in the Criminal Application No.376 of 2016. He is the owner of the Bar and Restaurant in which the alleged incident took place. His allegation is that the Applicants in the Criminal Application No.235 of 2016 indulged in the offence of rioting.

4 The offences subject matter of the complaint in Criminal Application No.376 of 2016 are under sections 143, 144, 147, 149, 427, 506 (2) and 504 of

the Indian Penal Code. The offences in the FIR subject matter of challenge in the Criminal Application Nos.235 of 2016 are under sections 143, 144, 147, 149, 427, 506 (2) and 504 of the Indian Penal Code. In both the matters, the first informant and the alleged victims of the offences have filed affidavits. They have recorded their respective consent for quashing the FIR as there is a complete settlement between the parties. We are informed that the parties are present before this Court.

5 Perusal of both the FIRs shows that the both relate to the same incident. There are two versions of the same incident. It appears that the FIRs are the result of a quarrel within the four corners of the restaurant. It cannot be said that the alleged offences are against the society at large or that they are of serious nature as specified in paragraph 61 of the decision of the Apex Court in the case of Gian Singh versus State of Punjab and another¹. In view of the law laid down by the Apex Court in the said decision, considering the settlement, this is a fit case for exercising the power under section 482 of the Code of Criminal Procedure, 1973.

6 Hence, we pass the following order:

7 In criminal application No.376 of 2016 Rule is made absolute in terms of prayer clause (b) which reads thus:

1 (2012) 10 SCC page 303

"(b) To quash and set aside the FIR No.247 of 2015 being Exhibit "A" herein above and all the proceedings initiated under sections 143, 144, 147,148,149,324,427,506(2) of the Indian Penal Code against the Applicant after examining the records, papers and proceedings, legality and validity."

8 In criminal application No.235 of 2016, Rule is made absolute in terms of prayer clause (b) which reads thus:

"(b) To quash and set aside the FIR No.248 of 2015 being Exhibit A hereinabove and all the proceedings initiated under sections 143, 144, 147, 149, 427, 506(2) and 504 of the Indian Penal Code read with section 85 of the Prohibition Act and subsequently all the proceedings and notices issued by the Respondent Nos.1 and 2 respectively against these Applicants after examining the records, papers and proceedings, legality and validity."

9 All concerned to act upon an authenticated copy of this order.

(A.A.SAYED,J.)

(A.S.OKA,J.)