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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.269 OF 2016

Sanjay Gulab Shirke and Ors. ..Applicants.
V/s.
State of Maharashtra and Ors. ..Respondents.

Mr.Abhijeet Naik i/b. Mr.Rajesh Khobragade for the applicants.

Mrs.M.M.Deshmukh, APP for respondent-State.

Ms.Pushpalata Kamble for respondent No.2.

AND
CRIMINAL APPLICATION NO.270 OF 2016

Mrs. Neela Prashant Sawant and Ors. ..Applicants.
V/s.
State of Maharashtra and Ors. ..Respondents.

Mr.Abhijeet Naik i/b. Mr.Rajesh Khobragade for the applicants.

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

Ms.Pushpalata Kamble for respondent No.2.

CORAM : NARESH H.PATIL AND
A.M.BADAR, JJ.

DATED : 18TH MARCH, 2016

P.C. :-

1. These are criminal application filed under section 482 of Code of Criminal Procedure, 1973 for quashing of the

F.I.R.s registered with Kalachowki police station, Mumbai.

2. In fact F.I.R.s in both these applications are cross F.I.R.s filed by both the parties against each other arising out of the same incident and, therefore, both these applications are being disposed of by this common order.

3. Applicants in Criminal Application No.269 of 2016 are accused in F.I.R. No.2/2016 filed against them at the instance of respondent No.2 / informant Neela Prashant Sawant for offence punishable under sections 354, 323, 504, 452 read with 34 of the Indian Penal Code, 1860 registered with Kalachowki police station, Mumbai.

4. Applicants in Criminal Application No.270 of 2016 are accused in F.I.R. No.4/2016 filed against them at the instance of respondent No.2 / informant Varsha Sanjay Shirke for offence punishable under sections 354, 452 504, 506, 323 read with 34 of the Indian Penal Code, 1860 registered with Kalachowki police station, Mumbai.

5. The facts leading to the institution of the present

applications can be summarized thus :-

a) On 3rd January, 2016 Neela Prashant Sawant, respondent No.2 in Criminal Application No.269 of 2016 lodged F.I.R. with Kalachowkie police station alleging that after the Special General Body Meeting of the Housing Society when she went to the flat of Waghmare, present applicants Sanjay Shirke, Mahesh Dolas and Sameer Nakhwa came there. Respondent No.2 informant Neela further alleged that applicant Sanjay Shirke caught hold of her odani and breast, whereas applicant Mahesh Dolas gave kick blows on her left leg. She further alleged that applicant Sameer Nakhwa grabbed her hair and beat her. It is further averred that applicants then rushed on the person of Prashant Namdeo Waghmare and they also pushed and pulled Nirmala Waghmare. This is how F.I.R No.2/2016 came to be registered.

b) On the very same day, informant / Varsha Shirke (wife of applicant No.1 Sanjay Shirke in Criminal Application No.269 of 2016) lodged a report with Kalachowki police station, Mumbai alleging that when she along with her husband was sitting in her apartment, Neela Prashant Sawant

(informant / complainant in Criminal Application No.269 of 2016) and Prashant Namdeo Waghmare entered in her apartment and abused her husband Sanjay Shirke. Respondent No.2 / Informant Varsha Shirke further averred that when she tried to intervene, applicant No.1 Neela Sawant grabbed her hair and assaulted her, whereas applicant No.2 Prashant Waghmare caught hold of her left arm and gave a blow on her chest. Respondent No.2 / Informant Varsha Shirke further alleged that Deepa Nakhwa tried to intervene to pacify the accused. This happened, according to the informant Varsha Shirke, after the Special General Body Meeting of the Society. This is how F.I.R No.4/2016 came to be registered.

c) It is thus obvious that the applicants in both these cases are victim or informant in both the crimes.

6. Heard learned counsel appearing for the applicants as well as respondent No.2 in both these cases. They were unanimous in stating that both the parties who have filed cross F.I.R.s against each other are residents of the same housing society and the alleged incident happened after the Special General Body Meeting of the said society. It was

further argued that both the parties in order to maintain harmony and peace in the housing society have amicably settled their disputes and have decided to close the chapter. Both parties in their respective applications have placed on record affidavits of informant as well as alleged victims of the crime in question to point out that all the persons allegedly involved in the crime in question have settled the dispute outside the Court. We have carefully considered the submissions so advanced and have also perused the F.I.R.s in question, so also the affidavits of the alleged victims and respondent No.2 / informant in both these cases.

7. We have also heard learned APP appearing for the State.

8. It is seen that the quarrel erupted after the Special General Body Meeting of the housing society wherein the issue of redevelopment was discussed leading to verbal duel between the residents of the society which has resulted in lodging cross F.I.R.s by rival groups. However, subsequently all affected persons, who are residents of the same building, have amicably settled the dispute in order to maintain peace

and harmony in the housing society. The offence in question does not involve any public law but the same is in respect of inter se dispute between both rival parties. Considering the fact that parties have settled the matter completely, even if the proceedings are continued, then also there are no chances of conviction. Continuation of the proceedings in such a situation would amount to loss of valuable time of the Court and inconvenience to the parties. It will certainly lead to abuse of process of Court. Hence though inherent powers of this Court are to be resorted to in rarest of rare cases, special circumstances of both these cases warrant exercise thereof. Hence the order.

i) Criminal Application Nos.269 and 2016 and 270 of 2016 are allowed.

ii) F.I.R. No.2/2016 registered on 3rd January, 2016 with Kalachowki police station, Mumbai for offence punishable under sections 354, 323, 504, 452 read with 34 of the Indian Penal Code, 1860 against the applicants at the instance of Respondent No.2 / informant Neela Prashant Sawant is quashed and set aside.

lii) F.I.R. No.4/2016 registered on 3rd January, 2016 with Kalachowki police station, Mumbai against the applicants for offence punishable under sections 354, 452 504, 506, 323 read with 34 of the Indian Penal Code, 1860 at the instance of respondent No.2 / informant Varsha Sanjay Shirke is quashed and set aside.

(A.M.BADAR, J.)

(NARESH H.PATIL, J.)