

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 279 OF 2016

Manoj Mohan Panjwani

...Applicant

Versus

Prashant Shankar Naik & Anr.

...Respondents

Mr. Shailesh Ishwarlal Kantharia, for the Applicant.

Mr. Prithviraj Bhagat, i/b Legal Hat, for Respondent No. 1.

Dr. F.R. Shaikh, APP for Respondent No. 2.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 5th July 2016

P.C. :

1. Rule. Learned APP waives service for the 2nd Respondent. Learned Counsel appearing for the 1st Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Application under Section 482 of the Criminal Procedure Code, 1973 (for short "**Cr.P.C.**") is for quashing the proceedings of criminal case in which the Applicant is being prosecuted for offences punishable under Section 326 of the Indian Penal Code.

3 . It appears that the matter was referred to the learned Mediator Judge (the learned Metropolitan Magistrate 17th Court Borivali, Mumbai) before whom a settlement was arrived at between the Applicant and the 1st Respondent (1st Informant-victim of the offence). The terms and conditions of the settlement have been incorporated in the Consent Terms dated 3rd November 2015 signed by the Applicant and the 1st Respondent before the learned Mediator Judge. The Consent Terms along with the Mediation Report of the learned Judge have been annexed at Exh.B to the Petition.

4 . We have perused the statement of the 1st Respondent on the basis of which First Information Report was registered. It appears that the Applicant and the 1st Respondent knew each other for some period of time. The incident occurred after both of them consumed liquor. It appears that an altercation between them led to the incident. We have perused injury certificate. After having perused the material forming the charge-Sheet and the injury certificate, we are of the view that the offence punishable under Section 326 of Indian Penal Code is not made out. There is a complete settlement between the Applicant and the 1st Respondent. In the statement of the 1st Respondent on the basis of his First Information Report was

registered, he himself has stated that he knew the Applicant for a period of two years and they have developed friendship.

5. Considering the nature of the offence alleged, it cannot be said that the alleged offence can have any impact on the society at large. Hence, in view of complete settlement, the terms of which are placed on record, this is a fit case to exercise powers under Section 482 of the Cr.P.C. in view of the decision of the Apex Court in the case of **Gian Singh Vs. State Of Punjab & Anr.**¹

6. Accordingly, the Application must succeed and we pass the following order :-

(i) Rule is made absolute, in terms of prayer clause (b), which reads thus :-

“(b) That the prosecution case if taken as it is, it is difficult to establish that the allegation as meted out in the F.I.R. would attract section 326 of I.P.C. and therefore, by facing trial under Section 326 would be total abuse of process of law.”

[A.A. SAYED, J.]

[A.S. OKA, J.]

¹ (2012)10 SCC 303