

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1667 OF 2016

Nafisa Rafiq Shaikh	...	...Petitioner
v/s.		
The State of Maharashtra & ors.		...Respondents
...		
Mr.A.A.Siddiquie i/b A.A.Siddiquie & Associates for the Petitioner.		
Mr.K.V.Saste, APP for the State.		
Mr.Makarand Madan Kale for the Respondent No.3		
...		

CORAM : A.S.OKA &

A.A. SAYED, JJ.

DATED : 21 SEPTEMBER 2016

P.C.:

Rule. Learned APP waives service for the first Respondent. Learned Counsel for the third Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Writ Petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing the First Information Report registered at the instance of the third Respondent alleging commission of offences punishable under section 307, 384, 506 & 504 read with section 34 of the Indian Penal Code.

3. We have perused the statement of the third Respondent, on the basis of which the impugned First Information Report is registered. The allegation is that around mid-night on 13th April 2010, the Petitioner accompanied by two unknown persons came near the porch of the house of the third Respondent and demanded a sum of Rs.5000/-. The allegation is that when the third Respondent resisted, the Petitioner started assaulting her. Thereafter, one person accompanied the Petitioner assaulted her on her eye. The other person accompanied the Petitioner assaulted the third Respondent by a knife.

4. The third Respondent has filed an Affidavit and has submitted that there is a settlement of dispute between her and the present Petitioner. On the earlier date, we have perused the medical certificate showing injuries sustained by the third Respondent. None of the injuries and even the allegation made in the statement of the third Respondent suggest that section 307 of the Indian Penal Code has been attracted. The ingredients of the section 307 are completely absent.

5. After having perused the material on record, apart from the fact that section 307 of the Indian Penal Code is not attracted, we find that the offence alleged cannot be said to be one against the society. It is not the

case where the Petitioner has a criminal background. Therefore, in view the law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab and anr.**¹ this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973. The contesting parties have paid a sum of Rs.5000/- to the Police Welfare Fund.

6. Hence, we pass the following order:

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

(a) That this Hon'ble Court be pleased to issue appropriate writ order and direction calling for the record, papers in connection with FIR No.151 of 2016 dated 13/04/2016 registered with the Respondent No.2 at the instance of the Respondent No.3 herein charging the Petitioner for the offences punishable under sections 307, 384, 506(II) and 504 read with section 34 of Indian Penal Code, 1973 and after examining legalities and proprieties of the same be pleased to quash and set aside the same;

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303