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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.607 OF 2016

Kadar Nijamuddin Khan & Ors. ...Applicants
vs.
Rahimuddin Bahadur Khan & Anr. ...Respondents

Mr.A.S.Rajadhyaksha for the applicants
Ms Archana Naik for the respondent No.1
Ms M.H.Mhatre, APP for respondent No.2

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

P.C.:

. Not on board. Taken on board.

1 Heard the learned counsel for the applicants and the learned APP for the second respondent. Rule. The learned counsel for the first respondent waives service. The learned APP waives service for the second respondent. Forthwith taken up for final disposal.

2 Yesterday, the application was produced when the learned APP was directed to verify the correctness of the medical certificate at page 20. The present application under section 482 of the Code of Criminal Procedure, 1973 has been filed for quashing the FIR registered at the instance of the first respondent alleging offences punishable under sections 326, 324, 504, 506 and 34 of the Indian Penal Code read with section 37 (1)(a) and 135 of

the Maharashtra Police Act. The first respondent has filed an affidavit in which he has stated that the applicants are his cousins and all of them have decided to settle the dispute. We have perused the statement of the first respondent on the basis of which the FIR was registered. His allegation is that the applicants assaulted him with the iron rod for the reason of their prior enmity.

3 We have perused the medical certificate which is a part of the charge sheet. It bears the certification of the Senior Inspector of Kurar Police Station being a true copy of the certificate issued by Municipal Hospital at Kandivali. It records that there is only one injury sustained by the first respondent on the frontal region of the head which is described as a simple injury. In the remarks column it is also stated that there is a history of alcohol consumption.

4 As disclosed in the affidavit of the first respondent, the incident occurred due to a fight between the cousins. The injury sustained is a simple injury. The dispute appears to be private and personal and it cannot be said that the offence alleged will affect the society at large. There is an amicable settlement between the parties. Therefore, in view of the law laid down by the Apex Court in the case of Gian Singh vs. State of Punjab¹ this is a fit case to exercise power under section 482 of the Code of Criminal Procedure, 1973.

¹ (2012) 10 SCC 303

5 Hence, the application must succeed. The application is allowed in terms of prayer clause (a) which reads thus:

“(a) That this Hon'ble Court be pleased to quash the FIR No.128 of 2015 and the proceedings in C.C.No.2410/PW/2015 pending before the Ld.M.M, 67th Court at Borivali, Mumbai under section 482 of the Cr.P.C read with Article 227 of the Constitution of India, and the petitioners be discharged from the abovementioned case.”

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

(A.A.SAYED,J.)

(A.S.OKA,J.)