

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 562 OF 2013
ALONG WITH
CRIMINAL WRIT PETITION NO.4713 OF 2015

CR.APPLICATION NO.562 OF 2013

Jitendra Tulsidas Chirlekar.	..	Applicant
Vs		
The State of Maharashtra and Another.	..	Respondents
—		

CR.WRIT PETITION NO.4713 OF 2015

Shri Gajanan Madhukar Lendi and Others.	..	Applicants
Vs		
State of Maharashtra and Another.	..	Respondents
—		

Shri Shreekant V. Gavand for the Applicant in Cr. Application No.562 of 2013 and for the Respondent No.2 in Cr.WP No.4713 of 2016.
Shri Gaurav Parkar for the Petitioner in Cr.WP No.4713 of 2016 and for the Respondent No.2 in Cr. Application No.562 of 2013.
Dr. F.R.Shaikh, APP for the Respondent No.1 State.

CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 15TH JULY 2016

PC.

1. Criminal Application No.562 of 2013 has been filed for quashing the First Information Report (FIR) being C.R. No.II - 11 of 2013 registered with Alibag Police Station, District Raigad at the instance of the second Respondent in the said Application. The offences

complained of are under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the said Act”). The second Respondent in Criminal Application No.562 of 2013 is the first Petitioner in the Criminal Writ Petition No.4713 of 2016. The challenge therein is to the chargesheet filed on the basis of C.R. No.70 of 2013 registered at Alibag Police Station, District – Raigad for the offences registered under Sections 353, 332, 143, 147, 149, 504 and 506 of the Indian Penal Code. The first informant in case of this FIR is the Applicant in Criminal Application No.562 of 2013.

2. We issue Rule in both the Criminal Application as well as Criminal Writ Petition. The learned counsel appearing for the Respondent No.2 in both the matters waive service. The learned APP waives service for the State of Maharashtra in both the matters.

3. In both the Application as well as the Writ Petition, the first informants have filed affidavits recording a complete settlement between the parties. We have perused the statements on the basis of which both the FIRs were registered. They relate to the same incident and thus, they are in the nature of cross complaints. From the allegations made therein, it appears that the dispute is between the two groups which has been amicably settled. There is a specific statement made in the affidavits filed by the first informants to that effect.

4. Both the first informants have deposited a sum of Rs.25,000/- each with the Police Welfare Fund by way of donation. Necessary documents in that behalf are placed on record.

5. Considering the peculiar facts of the cases, we find that it cannot be said that the offences alleged are against the society at large or they are heinous offences. Infact, as far as the offences under the said Act of 1989 are concerned, we find that Section 3(1)(x) of the said Act could not have been applied at all in the facts of these cases.

6. In view of the settlement of the dispute, this is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure, 1973 and the power under Article 226 of the Constitution of India in view of the decision of the Apex Court in the case of ***Gian Singh v. State Bank of Punjab***¹. Accordingly, we pass the following order.

ORDER :

- (a) Rule issued in Criminal Application No.562 of 2013 is made absolute in terms of prayer clause (a) which reads thus:

¹ (2012) 10 SCC 303

“(a) That the FIR in Alibag Police Station C.R. No.II-11/2013, registered under Section 3(1) (10(of SC and ST (Prevention of Atrocities) Act, 1989 registered against the Applicant be quashed and set aside.”

- (b) Rule issued in Criminal Writ Petition No.4713 of 2016 is made absolute in terms of prayer clause (a) which reads thus:

“(a) That, the Charge-Sheet in C.R. No.70/2013 registered with Alibag Police Station under sections 143, 145, 147, 353, 332, 504, 506 r.w 149 of the Indian Penal Code against the Applicants be quashed and set aside.”

- (c) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)