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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL WRIT PETITION NO.2268 OF 2016

Sameer Fakruddin Shaikh & Ors. ...Petitioners
vs.
Amit Shankar Utekar & Ors. ...Respondents

Mr.Kartik S. Garg i/b Mr.Ganesh Bhujbal for the
Petitioners
Mr.Pawan Mali for the respondent Nos.1 to 3.
Ms M.H.Mhatre, APP for respondent No.4

CORAM : A.S.OKA, &
 A.A.SAYED, JJ.
DATE : AUGUST 11, 2016

P.C.:

1 As the regular Bench presided over by Hon'ble Shri Justice N.H.Patil has declined to take up this writ petition. Therefore, as per the general administrative order passed by the Hon'ble the Chief Justice, this petition will have to be heard by this Bench.

2 Rule. Learned counsel for the respondent Nos.1 to 3 waives service. The learned APP waives service for the respondent No.4. Forthwith taken up for final hearing.

3 At the instance of the respondent No.1, the impugned FIR was registered with Dombivali Police Station for the offence punishable under sections 147, 148, 149, 307, 324, 323, 504, 506 of the Indian

Penal Code. After investigation, charge sheet has been filed. Prayer in the present petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 is for quashing the proceedings on the basis of compromise between the petitioners and the respondent Nos.1 to 3.

4 Except for the offence alleged under sections 143, 147 and 149, all other offences alleged are compoundable offences. We have perused the FIR. As disclosed in the FIR, apart from the respondent No.1, respondent Nos.2 and 3 are the victims of the alleged offence. Perusal of the statement of the respondent No.1 on the basis of which the FIR was registered shows that the incident occurred as a result of a dispute over a parking place. There are affidavits filed on record by the respondent Nos.1 to 3. In the affidavits, all of them have stated that settlement has been brought about between them and the petitioners at the intervention of their respective family members and elders. It is pointed out that the respondent No.3 and the petitioners are living in the same locality. The respondent Nos.1 and 2 are related to the respondent No.3. In the affidavit of the respondent No.3, it is stated that as the respondent Nos.1 and 2 are related to him, on his request, they have also agreed to settle the dispute amicably.

5 We have perused the medical certificates on record. We find that the offence alleged cannot be

categorised as a serious or heinous offence. It cannot be said that the offence is against the society at large. Apart from that, the affidavits record a complete settlement of the dispute between the petitioners and the respondents.

6 The learned counsel for the petitioners and the learned counsel for the respondent Nos.1 to 3 state that the said petitioners have complied with the directions of this Court and in fact, they have deposited Rs.50,000/- by way of donation to the Maharashtra Legal Services Authority. In view of the law laid down in case of *Gian Singh versus State of Punjab and another*¹, a case is made out to exercise power under section 482 of the Code of Criminal Procedure, 1973.

7 Accordingly, we dispose of the petition by passing the following order:

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

“(a) This Hon'ble Court may by invoking writ jurisdiction under Article 226 of the Constitution of India, issue appropriate writ, order or direction and the proceedings being R.C.C. No.570 of 2013 pending before 3rd Court, JMFC, Kalyan arising out of FIR being C.R.No.121 of 2013 registered with Dombivili Police Station, under sections 147, 148, 149,

1(2012) 10 SCC page 303

324, 323, 504, 506 of IPC may kindly be quashed and set aside."

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

(A.A.SAYED,J.)

(A.S.OKA,J.)