

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.811 OF 2016

Motiram Anant Gondhali & Ors. Applicants

V/s

Kiran Tulsiram Gondhali & Ors. Respondents

Mr. Indrajeet Joshi for the Applicants.

Mr. Sunil Ghatge for the Respondent Nos.1 and 2.

Ms. M.H. Mhatre, APP for the Respondent No.3/State.

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

DATED : 28 JULY 2016

ORDER:

1 Not on Board. Taken on Board.

2 This Application was heard yesterday. Rule. The learned APP waives service for the third Respondent. The learned Counsel appearing for the first and second Respondents waives service.

3 The prayer in this Application under section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report

alleging the offences punishable under sections 324, 143, 146, 147, 323, 504, 452, 506 read with section 34 of the Indian Penal Code and section 25 of the Indian Arms Act.

4 In the Application it is disclosed that the Applicants and the first and second Respondents are related. The incident allegedly occurred on 23 April 2016 when there was a function in connection with the marriage of a cousin of the first Respondent which was to be solemnized on 25 April 2016. The first Informant in this case is the first Respondent and the second Respondent is the victim of alleged offences. A joint Affidavit has been filed by the first and second Respondents. In the Affidavit it is contended that the incident occurred due to some misunderstanding on the spur of movement in the function in relation to the marriage. It is stated that an altercation between the Applicants and one Nitin Bhoir, who is related to the Applicants led to the incident. In paragraph 5 of the Affidavit, it is stated that after the incident, there was a settlement between the parties and in fact all of them attended the marriage function held on 25 April 2016. In paragraph 6 of the Affidavit, it is stated that the Applicants and the first and second Respondents belong to the same larger family and now there is no subsisting dispute.

5 We have perused the injury certificate of the injuries sustained by the second Respondent. The said injuries are not of a serious nature.

6 Perusal of the First Information Report shows that the incident occurred due to altercation between the two groups. The altercation took place when function of 'Haldi' ceremony was going on.

7 The learned APP appearing for the Respondent/State pointed out that against the first and third Applicants there are other offences registered.

8 After perusing the statement on the basis of which the First Information Report is registered, we are of the view that the incident occurred due to dispute between two groups of individuals. The offences cannot be said to be against the society at large. In view of the complete settlement of the dispute between the parties who are related to each other, in the light of the decision of the Apex Court in the case of **Gian Sing vs. State of Punjab**¹, this is a fit case to exercise the power under section 482 of the CrPC. The learned Counsel appearing for the Applicants and the learned Counsel appearing for the first and second Respondents on instructions state that they are willing to pay a reasonable amount by way of a donation to the Police Welfare Fund. We accept the said statement.

1 (2012) 10 SCC 303

9 Accordingly, we dispose of the Application by passing following order:

i) Rule is made absolute in terms of prayer clause 'B' which reads thus:

"B) That this Hon'ble Court be pleased to quash and set aside the C.R. No.I/102 of 2016 dated 24/04/2016 registered with Shil Daighar Police Station, Thane, for offences punishable U/s. 323, 324, 143, 146, 147, 452, 504, 5046 r/w 34 of the Indian Penal Code along with Sec. 25 of the Indian Arms Act."

ii) The Applicants and the first and second Respondents shall pay a total sum of Rs.20,000/- to the Police Welfare Fund within a period of four weeks from today. The Police Welfare Fund to accept the amount;

iii) Though the Application is disposed of, for reporting compliance, the same shall be listed on 2 September 2016.

(A.A. SAYED, J.)

(A.S. OKA, J.)

katkam