

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.851 OF 2016

Dr. Vinod Laxman Sarukte & Anr.

..... Applicants

V/s

The State of Maharashtra & Anr.

..... Respondents

Mr. Anant B. Shinde i/b M/s. Anant B. Shinde & Co. for the Applicants.

Dr. F.R. Shaikh, APP for the Respondent No.1/State.

Ms. Indrayani M. Koparkar for the Respondent No.2.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 10 OCTOBER 2016

ORDER:

1 Rule. The learned APP waives service for the first Respondent and the learned Counsel appearing for the second Respondent waives service. Forthwith taken up for final hearing.

2 The prayer in this Petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 (for short 'CrPC') is for quashing the First Information Report for the offences punishable under sections 354, 323, 504 read with section 34 of the Indian Penal Code lodged at the instance of the second respondent. The

prayer for quashing is sought on the basis of settlement between the parties. It is pointed out that the daughter of the second Respondent (first informant) filed Suit (L) No.253 of 2016 against the present Applicants on the original side of this Court. Reliance is placed on the settlement arrived at between the parties as reflected from order dated 5 August 2016 passed by the learned Single Judge in Notice of Motion (L) No.945 of 2016 in the said Suit. Paragraph 7 of the said order records that the parties agreed to make an Application to this Court for passing an appropriate order in the present Application on the basis of the settlement. The second Respondent filed an Affidavit dated 30 August 2016 in the present Application accepting that her daughter and her son-in-law filed aforesaid Suit against the present Applicants and that there is a settlement between them in the said Suit. Therefore, she has given no objection for quashing the First Information Report.

3 On the last date, the learned Counsel appearing for the second Respondent pointed out that as per the settlement, the Agreement for Sale has not been executed by the first Applicant. Today the learned Counsel appearing for the Applicants has placed on record a copy of Registered Deed of Sale dated 5 October 2016 executed by the first Applicant in favour of the daughter and son-in-law of the second Respondent. The learned Counsel appearing for the second Respondent

on instructions of the second Respondent who is personally present in the Court states that as the settlement has been acted upon, she has no objection for quashing First Information Report.

4 We have carefully considered the submissions. We have perused the statement of the second Respondent, on the basis of which the First Information Report was registered. The said First Information Report is based on incident of 12 March 2016 at 2 p.m. It is pointed out that the second Applicant is the father-in-law of the first Applicant.

5 In the Application, it is pointed out that on 7 March 2016 at the instance of the first Applicant, N.C. Complaint was registered against the daughter and son-in-law of the second Respondent. The statement of the second Respondent itself records that there was a dispute over property between the first Applicant and the daughter of the second Respondent.

6 Now, there is a complete settlement of the said property dispute as reflected from the order dated 5 August 2016 passed by the learned Single Judge in the aforesaid Suit. As recorded in the said order, it was agreed to quash the First Information Report by consent.

5 Considering the facts of the case, it is very difficult for us to accept that the offence alleged under section 354 of the Indian Penal Code is

made out. Moreover, the property dispute between the first Applicant and the daughter of the second Respondent led to the registration of the First Information Report. Now there is a complete settlement of the dispute. In the facts of the case, it cannot be said that the offences alleged are against the society at large. Therefore, in the light of the law laid down by the Apex Court in the case of **Gian Singh vs. State of Punjab**¹, this is a fit case to exercise the power of this Court under section 482 of the Cr.P.C. to quash the First Information Report. Accordingly, we pass following order:

ORDER

i) Rule is made absolute in terms of prayer clause (a) which reads as under:

“(a) Rule may be issued, this Hon'ble Court be pleased to quash the FIR bearing No.99 of 2016 dated 12.03.2016 u/s. 354, 323 and 504 r/w section 34 of I.P.C. registered by Versova Police Station against Applicant No.1 and 2.”

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

(A.A. SAYED, J.)

(A.S. OKA, J.)

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¹ (2012) 10 SCC 303