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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.857 OF 2016

Navin Chikaya Pujari and Ors.	... Applicants
Vs.	
State of Maharashtra and Anr.	... Respondents

Mr. Kuldeep S. Patil for the Applicants.
Ms. M.H. Mhatre APP for the Respondent No.1.
Ms. Ayesha M. Pinto i/by Mr. Yashodhan Gavankar for the Respondent No.2.

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

DATE : 12th AUGUST, 2016

PC.

1 Rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

2 By this application under Section 482 of the Criminal Procedure Code, 1973 (for short "Cr.PC.") the Applicants have prayed for quashing First Information Report registered at the instance of the second Respondent at Malwani Police Station in Mumbai for the offences punishable under Section 324, 323, 504, 427 and 506 read with 34 of the Indian Penal Code. The incident is of 10th July, 2016.

The second Respondent along with others consumed liquor late in the night. Some of them came out to drop their friend Lawrence at his residence. While they were proceeding by a motor cycle they stopped at bus stop near Malwani Church. At that time, one person approached them and demanded lift. When the second Respondent and others denied the lift, he started altercation. At that time, one person came from behind and assaulted the second Respondent by a beer bottle. He has stated that a third person was also involved in the acts of violence. On the last date, we have perused the medical certificate issued to the second Respondent by Oscar Hospital on 28th July, 2016. He was admitted in the said hospital on 10th July, 2016. The certificate shows that the second Respondent suffered three CLWs, one lacerated wound and one abrasion.

3 There is an affidavit-in-reply filed by the second Respondent. In the affidavit-in-reply, he has stated that there was a misunderstanding between him and the Applicants and now the issue is settled. He has recorded his no objection for quashing the FIR.

4 From the statement of the second Respondent on the basis of which FIR was registered, it appears to us that there was an altercation between the second Respondent and his friends on one hand

and the Applicants on the other hand. Admittedly, the second Respondent and his friends had consumed liquor. The altercation led to act of assault on the part of the Applicants.

5 Looking to the injuries sustained by the second Respondent and looking to the assertions in the statements of the second Respondent it appears to us that the offence will not fall in the category of heinous or serious offence. It cannot be said to be an offence against the society at large. It appears to be a result of altercation between two groups. The Applicants and the second Respondent are residing in the same locality.

6 The applicants have on their own deposited an amount of Rs.40,000/- by way of a donation to the Police Welfare Fund. Receipts in the sum of Rs.10,000/- and 30,000/- respectively are tendered across the Bar.

7 Considering the facts of the case, the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab¹ will be applicable. Accordingly, the application must succeed and we pass the following order :-

1 (2012) 10 SCC 303

ORDER

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

(a) That this Hon'ble Court may pass appropriate orders/writ/directions and quash and set aside all the proceedings arising out of and the FIR bearing C.R.No.380 of 2016 registered with Malwani Police Station, Mumbai.

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

(A.A. SAYED, J)

(A.S. OKA, J)