

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.859 OF 2016

...	...Applicants
Mr.Dilip Mahadev Mhatre and Ors.	
v/s.	
The State of Maharashtra and anr.	...Respondents

WITH
CRIMINAL WRIT PETITION NO.2396 OF 2016

...	...Petitioners
Moreshwar Pundlik Mhatre and ors.	
v/s.	
The State of Maharashtra and anr.	...Respondents

....

Mr.harshad Sathe for the Applicants in APL/859/2016 and for Respondent No.2 in WP/2396/2016.

Mr.Avinash Avhad a/w Mr.Amruth Athavale i/b Racheeta R.Dhuru for the Petitioner in WP/2386/16 and for the Respondent No.1 in APL/859/2016.
Mr.K.V.Saste, APP for the Respondent No.1-State.

...

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

DATED : 27 OCTOBER 2016

P.C.:

Rule. Learned APP wavier service for the first Respondent in Criminal Application No.859 of 2016. Learned Counsel appearing for the second Respondent waives service of notice in the said Application. In Criminal Writ Petition No.2396 of 2016, the learned APP waives service for the first Respondent. Learned Counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

2. The first Applicant in Criminal Application No.859 of 2016 is the second Respondent in Criminal Writ Petition No.2396 of 2016. The second Respondent in Criminal Application No.859 of 2016 is the second Petitioner in Criminal Writ Petition No.2396 of 2016.

3. In Criminal Application No.859 of 2016, the prayer is for quashing the First Information Report registered at the instance of the second Respondent therein for the offences punishable under sections 323, 326, and 504 of the Indian Penal Code.

4. In Criminal Writ Petition No.2396 of 2016, the prayer is for quashing the First Information Report registered at the instance of the second Respondent therein for the offences punishable under section 326, 427, 323, 504 and 506 read with section 34 of the Indian Penal Code.

5. In both Petitions, the First Informants have filed affidavits recording settlement between the parties. The incident subject matter of Criminal Application No.859 of 2016 is of 14 May 2016. The First Information Report subject matter of Criminal Writ Petition No.2396 of 2016 is in the nature of a cross case based on the same incident. Perusal of statements of the First Informants in both the cases show that the property dispute between the two groups and in particular a boundary dispute led to the registration of the

offences. In both the cases, the First Informants have stated that there is a settlement between the parties of the said boundary dispute. We find that in both the cases, none of the victims have suffered any serious injury. The dispute is in the nature of family dispute. In view of this settlement, in the light of law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab and anr.**¹ this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973.

6. Considering the fact that in both the cases, a criminal law was set in motion in purely a civil dispute, the First Informants on their own have deposited a sum of Rs.25,000/- each by way of donation to the Maharashtra State Legal Services Authority.

7. Accordingly, we pass the following order:

(i) In Criminal Application No.859 of 2016, Rule is made absolute in terms of prayer clause (a), which reads thus:

(a) That this Hon'ble Court may be pleased to quash and set aside the complaint registered by Shil-Daighar Police Station, Thane, vide CR No.123/2016 registered with u/s 323, 326, 504 of the Indian Penal Code;

¹ (2012) 10 SCC 303

(ii) In Criminal Writ Petition No.2396 of 2016, Rule is made absolute in terms of prayer clause (b), which reads thus:

(b) This Hon'ble Court be pleased to allow the present Writ Petition and further be pleased to quash and set aside the F.I.R. filed by Respondent No.2 bearing C.R.No.I-124 dated 15-5-2016 registered at "Shil Dayghar Police Station, for offence punishable under Sections 326, 427, 323, 504, 506 r/w 34 of the Indian Penal Code;

All concerned to act on an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S.OKA, J.)