

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.914 OF 2016
ALONG WITH
CRIMINAL APPLICATION NO.832 OF 2016

CR.APPLICATION NO.914 OF 2016

Mr. Mohammed Shabbir Mohammed
Issaq Khan and Others. .. Applicants
Vs
The State of Maharashtra and Another. .. Respondents
—
Shri Jayant S. Bodke for the Applicants.
Ms. M.H. Mhatre, APP for the Respondent No.1.
Shri Kiran Jain i/b Kiran Jain & Co for the Respondent No.2.
—

CR.APPLICATION NO.832 OF 2016

Mihir Vijay Doshi. .. Applicant
Vs
The State of Maharashtra and Another. .. Respondents
--
Shri Kiran Jain i/b Kiran Jain & Co for the Applicants.
Ms. M.H. Mhatre, APP for the Respondent No.1.
Shri Jayant S. Bodke for the Respondent No.2.
—

CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 1ST AUGUST 2016

PC.

1. Criminal Application No.832 of 2016 is on board. Criminal Application No.914 of 2016 is not on board. The same is taken on board.

2. Heard learned counsel appearing for the Applicants in both the Applications. We have heard the learned counsel appearing for the second Respondent in both the Applications. We have heard the learned APP for the first Respondent in both the Applications.

3. Rule. The Advocates on record for the second Respondent in both the Applications waive service. The learned APP waives service for the State-first Respondent. Forthwith taken up for final disposal.

4. The First Information Report (FIR) subject matter of the Criminal Application No.914 of 2016 is registered at the instance of the second Respondent for the offences punishable under Sections 143, 147, 149, 153, 155, 323, 336, 341, 427, 452, 504 and 506(2) of the Indian Penal Code. The incident on which the FIR is based is in relation to the property described in Paragraph 3 of the statement of the second Respondent.

5. As far as the Criminal Application No.832 of 2016 is concerned, the impugned First Information Report is registered at the instance of the second Respondent for the offence punishable under Sections 145, 147, 149, 450, 341, 324 of the Indian Penal Code. The incident subject matter of both the FIRs relates to the same property. In fact, we may note here that even the incident is of the same date which is 1st May 2016. The second Respondent in the Criminal Application No.914 of 2016 is the Applicant in the Criminal Application No.832 of 2016. The second Respondent in the Criminal Application No.832 of 2016 is the first Applicant in the Criminal Application No.914 of 2016.

6. In both the Applications, reliance is placed on the settlement arrived at between the parties in Suit (L) No.513 of 2016. A copy of the consent terms has been annexed to both the Applications. Clause 17 of the consent terms records that the parties agreed to quash the FIR subject matter of both the Applications. The suit was disposed of in terms of the consent terms by the learned Single Judge of this Court by an order dated 13th May 2016. In both the Applications, the first informants have filed the affidavits reiterating the settlement of the dispute between them in Suit (L) No.513 of 2016.

7. Perusal of the statements of the first informants on the basis of which the impugned FIRs were registered shows that it was a property dispute between the parties which led registration of the impugned FIRs. Now there appears to be a complete settlement in respect of the said dispute. Therefore, in view of the law laid down by the Apex Court in the decision in the case of ***Gian Singh v. State Bank of Punjab***¹, a case is made out for exercising the powers under Section 482 of the Code of Criminal Procedure, 1973.

8. In both the Criminal Applications, the first informants have set the criminal law in motion on the basis of a dispute which is having pre-dominantly a civil flavour. Therefore, both the first informants will have to pay a reasonable amount by way of donation to the Police Welfare Fund. The learned counsel appearing for the second Respondent/first informant in both the Applications state that they have left the determination of amounts to this Court.

9. Accordingly, we dispose of the Applications by passing the following order:-

1 (2012) 10 SCC 303

ORDER :

- (a) Rule in Criminal Application No.832 of 2016 is made absolute in terms of prayer clause (a) which reads thus:

“(a) that this Hon'ble Court may be pleased to quash the F.I.R No.127/2016 registered by the Byculia Police Station on the basis of the complaint lodged by the Respondent No.2.”

- (b) Rule in Criminal Application No.914 of 2016 is made absolute in terms of prayer clause (a) which reads thus:

“(a) this Hon'ble Court be pleased to quash and set aside the impugned F.I.R No.126 of 2016 lodged by Respondent No.2 with the Byculia Police Station for the offences punishable u/s. 143, 147, 149, 153, 155, 323, 336, 341, 427, 452, 504 and 506(2) of I.P.C. be stayed.”

- (c) We direct the first Applicant in the Criminal Application No.914 of 2016 and the Applicant in the Criminal Application No.832 of 2016 to pay the sum of Rs.50,000/- (Rupees Fifty Thousand) each by way of donation to the Police Welfare Fund. The office of the Director General of Police shall accept the amounts from the said Applicants on production of an authenticated copy of this order;

- (d) Though the Applications are disposed of, the same shall be listed on 6th September 2016 for reporting compliance;
- (e) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)