

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.993 OF 2016

Nilofer Hafiz Kureshi & Ors. Applicants
V/s
State of Maharashtra & Anr. Respondents

Mr. Vaibhav Chaudhari i/b Mr. Shrikant J. Sonkawde for the Applicant in Cri. Application No.993 of 2016.

Dr. F.R. Shaikh, APP for the Respondent No.1/State in Cri. Application No.993 of 2016.

Mr. Ravi Dwivedi for the Respondent No.2 in Cri. Application No.993 of 2016.

WITH
CRIMINAL APPLICATION NO.994 OF 2016

Shahid Ali Sandole & Ors. Applicants
V/s
State of Maharashtra & Anr. Respondents

Mr. Ravi Dwivedi for the Applicants in Cri. Application No.994 of 2016.

Mr. K.V. Saste, APP for the Respondent No.1/State in Criminal Application No.994 of 2016.

Mr. Vaibhav Chaudhari i/b Mr. Shrikant J. Sonkawde for the Respondent No.2 in Cri. Application No.994 of 2016.

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

DATED : 23 AUGUST 2016

ORDER:

1 Not on Board. Taken on Board.

2 Rule. The learned APPs waive service for the first Respondent in both the Applications. The learned Counsel appearing for the second Respondent in both the Applications waives service.

3 The prayer in Criminal Application No.993 of 2016 is for quashing criminal proceedings for the alleged offences punishable under sections 452, 354, 323, 504 read with section 34 of the Indian Penal Code. The second Respondent is the first Informant. The second Respondent is the second Applicant in Criminal Application No.994 of 2016. The said Application is filed for quashing the criminal proceedings for the offences punishable under sections 452, 324, 323, 504 read with section 34 of the Indian Penal Code. The First Information Report subject matter was registered at the instance of the second Respondent who is the first Applicant in Criminal Application No.993 of 2016. We have perused both the First Information Reports. They relate to the same incident and they are in the nature of cross complaints. It appears that the whole dispute started as a result of a civil suit filed in the City Civil Court at Dindoshi. Affidavits have been filed by the first Informants in both the cases. They have stated that parties are neighbors and they have resolved all the disputes. The learned Counsel appearing for the parties state that on 19 August 2016, a compromise was recorded in the pending Civil Suit in the City Civil Court at Dindoshi.

4 Perusal of the First Information Report shows that the dispute is of immovable property which led to registration of both the First Information Reports which are in the nature of cross Complaints. Considering the

allegations made in the First Information Reports, it cannot be said that the offences alleged are of serious nature. It cannot be said that the offences are against the society at large.

5 Considering the overall settlement of the property dispute, now continuation of criminal proceedings will cause prejudice to both the parties. Therefore, in view of the law led down by the Apex Court in the case of **Gian Singh vs. State of Punjab & Anr.**¹ this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass following order:

i) Rule issued in Criminal Application No.993 of 2016 is made absolute in terms of prayer clause (c) which reads thus:

“(c) This Hon’ble Court on satisfying itself as to the correctness and legality of the Charge-sheet at “ANNEXURE-A” hereto be quashed and set aside and consequently proceedings being C.C. No.1397/PW/2016 pending before the Learned Metropolitan Magistrate, 12th Court at Bandra, Mumbai, be quashed and set aside.”

ii) Rule issued in Criminal Application No.994 of 2016 is made absolute in terms of prayer clause (a) which reads thus:

¹ (2012) 10 SCC 303

“(a) That this Hon'ble Court be pleased to quash and render useless the F.I.R. and all consequent proceedings, if any in the matter of C.R. No.184 of 2015 of the Bandra Police Station at Bandra (West) Mumbai.”

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

(A.A. SAYED, J.)

(A.S. OKA, J.)

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