

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.896 OF 2015

Thomas Kaitan Fernandes. .. Applicant
Vs
The State of Maharashtra and Others. .. Respondents
—
Shri H.S. Shreepad Murthy i/b Shri Abhishek Patil for the Applicant.
Mrs. M.H. Mhatre, APP for the Respondent No.1.
Shri Deepak Poonamiya for the Respondent Nos.2 and 3.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 17TH JUNE 2016

P.C.

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

2. By this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”), the prayer is for quashing the First Information Report (FIR) registered for the offences punishable under Section 452, 506(II) read with 34 of the Indian Penal Code. The second Respondent is the Complainant who filed a complaint on behalf of the third Respondent.

3. The second Respondent on behalf of himself as well as third Respondent has filed an affidavit dated 15th June 2016 which is tendered across the bar. He has stated that the Applicant has tendered apology and has compensated the Complainant. Therefore, the second Respondent on behalf of himself and third Respondent has given No Objection for quashing the proceedings.

4. We have perused the allegations made in the statement on the basis of which FIR is registered. We find that the allegation is that the third Respondent Company was doing the work of levelling of a particular land. The present Applicant allegedly obstructed the activity, which led to altercation.

5. From the FIR, it appears to us that the case has a predominant civil flavour. Perhaps, the dispute over the property led to the registration of FIR. The alleged offence is of private nature and does not have any impact on the society at large. Therefore, the law laid down by the Supreme Court in the decision in the case of ***Gian Singh v. State of Punjab***¹ will have to be applied.

6. Accordingly, we dispose of the Application by passing the following order:

1 [(2012)10 SCC 303]

ORDER :

(a) The Rule is made absolute in terms of Prayer Clause

(a), which reads thus:

“(a) That this Hon'ble Court be pleased to call for the record and proceedings in respect of the Criminal Complaint being C.R. No.99 of 2012 filed by MIDC Police Station, Andheri (E), Mumbai and complaint being C.C. No.1617/PW of 2012 on the file of Ld. Addl. Chief M.M., 22nd Court, Andheri, Mumbai, for the offences punishable under Sec. 452, 506(II) r/w 34 of IPC and after perusing the same be pleased to quash the said Complaint.”

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

(A.A. SAYED, J)

(A.S. OKA, J)