

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 1042 OF 2016

Jaydeep Mahadeo Katke. .. Applicant
Vs
State of Maharashtra and Another. .. Respondents
—
Shri Satyaram R. Gaud i/b Shri Manoj R. Gowd for the Applicant.
Shri K.V. Saste, APP for the Respondent No.1.
Shri Mukesh K. Badsawal for the Respondent No.2.
—

CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 24TH OCTOBER 2016

PC.:

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

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under Sections 354, 354(D) and 506(II) of the Indian Penal Code. The first informant (Second Respondent) is the real sister of one Seema who married to the present

Applicant. It is alleged that there was some dispute between the said Seema and the said Applicant. The said Seema lodged FIR against the Applicant for the offences punishable under Section 498-A, 323, 377 and 506 read with 34 of the Indian Penal Code. The Applicant registered FIR against the brother of the second Respondent and his wife alleging various offences.

3. It is stated that the second Respondent's brother was arrested in connection with the said FIR registered at the instance of the Applicant. In connection with the bail application filed by the second Respondent's brother, the second Respondent along with his another brother Prashant were present in the Sessions Court on 22nd April 2016. The alleged incident occurred on the subsequent date i.e. 23rd April 2016.

4. There is a reply filed by the second Respondent in which he has stated that her sister Seema and the second Respondent have resolved the matrimonial dispute and at present, both are residing with their children. She has stated that as the FIR filed at the instance of her sister against the Applicant has been agreed to be quashed, she has no objection for quashing the FIR subject matter of challenge in this Application.

5. Our attention is invited to the order dated 21st September 2016 in Criminal Application No.745 of 2016. By the said order, the FIR lodged at the instance of the second Respondent's sister against the Applicant has been quashed by recording that the Applicant and the second Respondent's sister have settled the matrimonial dispute and in fact, they have resumed cohabitation.

6. The root cause of the second Respondent filing FIR and making allegations against the Applicant was the matrimonial dispute of her sister with the Applicant. Now, there is a complete settlement of the matrimonial dispute between the Applicant and the second Respondent. Therefore, this is a fit case to exercise the power under Section 482 of the CrPC.

7. Considering the aforesaid aspects, possibility of conviction is very bleak and continuation of the criminal proceedings will not serve any purpose. Therefore, in the light 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 quashing the FIR. Accordingly, we pass the following order.

1 (2012) 10 SCC 303

ORDER :

- (a) The Rule is made absolute in terms of prayer clause
(b), which reads thus;

“(b) This Hon'ble Court may be pleased to quash and set aside the First Information Report (F.I.R.) bearing its C.R. No.80 of 2016 lodged with Colaba Police Station dated 18.05.2016 for an offence punishable 354, 354 D, 506(II) of I.P.C. against above-named Applicant, lodged at the instance of present Respondent no.2 by exercising its inherent power as provided under section 482 of the code of criminal procedure”.

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

(A.A. SAYED, J)

(A.S. OKA, J)