

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.1059 OF 2015

Aniket Chandrakant Bhosale ...Applicant
vs.
The State of Maharashtra & Anr. ...Respondents

Mr.Laxmikanth M. Shukla for the applicant
Mr.Pradip Rajput for the respondent No.2
Mr.K.V.Saste, APP for respondent No.1

CORAM : A.S.OKA, &
A.A.SAYED, JJ.
DATE : SEPTEMBER 30, 2016

1 The prayer in this application under section
482 of the Code of Criminal Procedure, 1973 as can be
seen from prayer clause (a) is for quashing the
First Information Report being C.R.No.204/2015
registered with Charkop Police Station. We have
carefully perused the typed cause title of the
index, synopsis and the memorandum of application.
While typing the said cause title, CR No.205 of
2015 of Charkop police station has been typed as
impugned FIR. Before filing, the FIR/CR Number has
been corrected by hand as 204/2015. A copy of
CR/FIR No.204 of 2015 is annexed as Exhibit-A to the
application wherein the offence alleged is under
sections 143, 147, 148, 323 of the Indian Penal
Code.

2 On 23rd September 2016, when the application was listed before the Court, an affidavit of the second respondent (first informant) was filed recording consent for quashing the FIR. After perusing the said affidavit, since impugned offence was under Section 323 read with sections 143, 147, 148 of the Indian Penal Code, we permitted the parties to file the consent terms on record. We may note here that in the affidavit in reply, C.R.No.205/2015 has been mentioned as the impugned FIR.

3 Today, when the application is called out, the consent terms are tendered on record. The learned counsel for the applicant seeks amendment for annexing the correct copy of the FIR and for amendment of the prayers. The correct copy of the FIR is tendered on record which bears CR No.205/2015 wherein offences punishable under sections 392, 427 read with section 34 of the IPC have been alleged.

4 When this application was listed on 8th September 2016, this Court was misled by representing that the prayer in the Application was for quashing the FIR bearing CR No.204/2015 for the offences complained of under sections 143, 147, 148 and 323 of the IPC and that is why we have adjourned the application till today, with a direction to show the same under the caption of 'Settlement' to enable the parties to file the consent terms. Now, the prayer of the Applicant is to permit amendment for adding a prayer for quashing CR No.205/2015 wherein more serious offences under sections 392 and 327

read with section 34 of the IPC have been alleged. If the cause title of the Index, Synopsis, prayers and the copy of the FIR annexed as Exh.`A' are perused, any one will be misled to believe that the Applicants are seeking to quash FIR alleging offences under section 323 read with sections 143, 147 and 148 of IPC. The Court has been misled. Only on this ground that the Application will have to be dismissed.

5 For the sake of record, we permit a formal amendment to be carried out for incorporating a challenge to the CR No.205/2015 (instead of CR No.204/2015) registered at Charkop Police Station and for replacing the copy of FIR No.204/2015 annexed at Exhibit A to the application. Amendment shall be carried out within a period of two weeks from the date on which this order is uploaded.

6 Perused the statement of the first informant on the basis of which CR No.205/2015 has been registered. The first informant is the owner of the auto rickshaw. At 3.30 a.m on 3rd June 2015, while he was plying the auto rickshaw, three persons riding a motor cycle stopped the auto rickshaw. Two pillion riders on the motor cycle occupied the rear seat of the auto rickshaw. The person plying the motor cycle went ahead. The passengers in the auto rickshaw instructed the first informant to proceed towards the direction of Borivali link road. After proceeding further, the passengers in the auto rickshaw told him to stop the auto rickshaw. One of

them threatened the first informant and called upon him to hand over the cash collected by the first informant. When he refused to do so, the person plying the motor cycle came from rear side and snatched the bag containing the cash collection from the first informant. One of the two passengers abused the first informant and the other assaulted the first informant by hand. When the first informant resisted, one of the three persons threw stones on the front glass of the auto rickshaw as a result of which glass broke with a loud noise. When the noise was heard, the three persons ran away from the spot by using the same motor cycle. The first informant proceeded to Charkop police station for lodging the complaint.

7 Considering the statement of the first informant, we are of the view that the offence is of a very serious nature which can be categorised as the offence against the society at large. Therefore, no case is made out for quashing the FIR on the basis of the so called settlement between the parties. We have perused the consent terms tendered today which are affirmed on oath. All that is stated in the consent terms is that the dispute is of personal nature and the first informant is not willing to go ahead with the matter.

8 In our view, no case is made out for quashing the FIR on merits as well as on the ground stated in paragraphs 2 to 4 above. Accordingly, this criminal application for quashing the CR No.205/2015

registered at Charkop Police Station is hereby
rejected.

(A.A.SAYED,J.)

(A.S.OKA,J.)