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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3534 OF 2016

1 Bhavesh Keshav Mhatre
2 Deepak Parshuram Kadam
3 Vrushabh Maruti Londhe @ Bhayya
4 Sairaj Nagesh Gore
5 Atish Ashok Bhanusaghare ...Petitioners
vs.
1 State of Maharashtra
(at the instance of Badlapur
East Police Station, Dist.Thane)
2 Shatatarka Dattatray Bhadakwad
3 Smt.Kalpana Dattatraya Bhadakwad
4 Manish Pramod Wani ...Respondents

Mr.Viresh Purwant for the Petitioners
Ms S.V.Sonawane, APP for the respondent No.1
Mr.Sachin Deokar for respondent Nos.2 and 3.

CORAM : A.S.OKA, &
A.A.SAYED, JJ.
DATE : OCTOBER 25, 2016

ORAL JUDGMENT : (PER A.S.OKA,J.)

1 Rule. The learned APP waives service for the first respondent. The learned counsel for the second and third respondents waives service. Forthwith taken up for final disposal.

2 The prayer in this petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure,1973 (for short Cr.P.C.) is for quashing the FIR registered for the offences under sections 354, 323, 507, 143, 147, 149 of the Indian Penal Code and section 8 of the

Protection of Children from Sexual Offences Act, 2012 (for short 'the said Act of 2012'). The second respondent is the first informant whose age on the date of lodging of the FIR was 17 years. In the FIR she has stated that the third respondent was her friend. She has stated that she is taking education in a College at Thane in XII Standard in Science stream. She stated that one Yash Sontakke is also her friend. She has stated that through her friend Pranali, she was introduced to the first petitioner. According to her case, the first petitioner had an objection to the friendship of the second respondent with the said Yash.

3 The main incident is of 25th September 2016 which took place at about 12.15 p.m. On 24th September 2016 the said Yash had suffered a minor injury. At 12.15 p.m on 25th September 2016, the second respondent and the third respondent came to a medical shop for buying medicines and were proceeding towards the residence of the said Yash for giving him the medicines. She stated that after coming back from the residence of the said Yash, she received a phone call from the first petitioner. The allegation is that the first petitioner abused her. As desired by the first petitioner, the second and third respondents came near the building where the said Yash was residing. At that time, the first petitioner along with other petitioners were present there. At that time the first petitioner and other petitioners committed objectionable act of outraging the modesty of the second respondent. They

assaulted the third respondent.

4 The third respondent has filed an affidavit stating that after lodging of the FIR, his parents and elderly persons felt that considering the young age of the petitioners they should not be dragged to the criminal Court. He has stated that there is a settlement between him and the second respondent. The mother of the second respondent Mrs.Kalpana Dattatray Bhadakwad has also filed an affidavit. She has stated that after lodging of the FIR, she realised that as a result of the registration of the FIR her daughter and the petitioners who are her friends will be dragged to the criminal Court. She has stated that she does not desire that her daughter and her friends visit the police station or the criminal Court any longer. She has further stated that the respectable persons from the locality have met the family members of the petitioners as well as her family members and thereafter, they have decided to put an end of the controversy.

5 The petitioners have deposited a sum of Rs.50,000/- each by separate demand drafts drawn in the name of the Registrar of this Court on 20th October 2016. The petitioners have filed separate affidavits dated 10th October 2016. They have given undertakings to do the cleaning work in the Ward No.1, Kulgaon, within the limit of Badlapur Municipal Council for two hours on every Sunday in the month of November 2016 as may be directed by the

Ward Officer of the said Ward.

6 It appears from the statement of the second respondent recorded by the police on the basis of which the FIR was registered that the first petitioner was very wellknown to her as they had joined same coaching class when they were in VII Standard. As disclosed in the cause title, the petitioners are in the age group of 19 to 22 years. It is pertinent to note that neither the third respondent nor the mother of the second respondent had come out with a case that no such incident had taken place. They have stated that considering the young ages of the petitioners, they should not be dragged to the criminal Court. The mother of the second respondent has stated that she does not desire to force her daughter to visit the police station or the criminal Court.

7 The petitioners have shown remorse by depositing a sum of Rs.50,000/- each. The petitioners have offered to do social service by undertaking to do the cleaning work in Ward No.1, Kulgaon, Badlapur on every Sunday in the month of November 2016. In fact, undertakings to that effect have been separately filed by the petitioners.

8 Considering the peculiar facts of the case as narrated above, it cannot be said the offence alleged is against the society at large. Considering the respective ages of the petitioners and the remorse shown by them, we are inclined to

exercise power under section 482 of the Cr.P.C for quashing the offences.

9 Accordingly, we pass the following order:

- (I) We accept the undertakings of the petitioners dated 10th October 2016 in which they have undertaken that they will do the work of cleaning in Ward No.1, Kulgaon, Badlapur on every Sunday in the month of November 2016 under the directions of the Ward Officer of the said Ward;
- (II) We direct the Officer in charge of the Badlapur Police Station to communicate this order to the Ward Officer of Ward No.1 by submitting a copy of this Judgment and order. On receipt of a copy of the the Judgment and Order, the Ward Officer of Ward No.1, Badlapur Municipal Council shall assign appropriate work of cleaning to the petitioners for a period of two hours on every Sunday in the month of November 2016;
- (III) The Ward Officer of Ward No.1 shall issue a certificate of compliance of these directions by the petitioners which shall be handed over to the Officer In-charge of the Badlapur (East) Police Station on or before 3rd December 2016;
- (IV) Rule is made absolute in terms of prayer clause (a) which reads thus:
“(a) this Hon'ble Court be pleased to quash the F.I.R dated 26.9.2016 filed by the Respondent No.2 herein which is registered

as C.R.No.I-128 of 2016, with Badlapur East Police Station, District Thane, on such terms and conditions as this Hon'ble Court deem fit and proper in the facts and circumstances of the case."

(V) We direct the Registrar (Judicial-I) to transfer the amounts deposited by the petitioners together with interest accrued thereon, if any, to the Maharashtra State Legal Services Authority for the use of the said amount for the work relating to mediation;

(VI) The petition shall be listed on 7th December 2016 under the caption of 'directions'. Compliance report shall be filed by the Officer In charge of Badlapur (East) Police Station;

(VII) At the time of consideration of the compliance report, we direct the petitioners to personally remain present in the Court;

(VIII) We direct the petitioners to report to the Ward Officer of Ward No.1, Badlapur Municipal Council, District Thane on 3rd November 2016 at 11.00 a.m.

(A.A.SAYED,J.)

(A.S.OKA,J.)