

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1246 OF 2015

Shri Dnyaneshwar Mahadeo Jawalkar & Ors. Applicants

V/s

State of Maharashtra & Anr. Respondents

WITH
CRIMINAL APPLICATION NO.1247 OF 2015

Shri Maloji Maruti Jawalkar & Ors. Applicants

V/s

State of Maharashtra & Ors. Respondents

Mr. Vasant G. Adsul for the Applicants in both Applications.

Dr. F.R. Shaikh, APP for the Respondent No.1/State in both CAs.

Mr. Maloji M. Jawalkar - Respondent No.2 in person in CA 1246/2015.

Mr. Appasaheb M. Jawalkar - Respondent No.2 in person in CA 1247/15.

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

DATED : 16 AUGUST 2016

ORDER:

1 Heard the learned Counsel appearing for the Applicants. Rule. The learned APP waives service of the first Respondent. The second Respondent in both the Applications are personally present in the Court. Both the Applications are forthwith taken up for final disposal.

2 The learned Counsel appearing for the Applicants tenders separate Affidavits of the second Respondent in both the Applications. He states that he personally identifies the second Respondent in both the Applications and in fact, he has identified both of them on the Affidavits tendered today.

3 In Criminal Application No.1246 of 2015, the prayer is for quashing First Information Report and for quashing Regular Criminal Case No.785 of 2013 for the offences punishable under section 504, 506, 143, 144, 147, 148, 149, 324 read with section 34 of the Indian Penal Code. The second Respondent is the first Informant.

4 The second Respondent in Criminal Application No.1246 of 2015 and others have filed Criminal Application No.1247 of 2015 for quashing the Regular Criminal Case No.872 of 2013 pending before the 38th Judicial Magistrate First Class, Pune for the offences punishable under sections 324, 506, 504, 143, 144, 148 and 149 read with section 34 of the Indian Penal Code. The second Respondent in the said Application is the first Informant. He is the second Applicant in Criminal Application No.1246 of 2015

5 The First Information Reports subject matter of these Applications are in the nature of cross cases based on the same incident. Perusal of

the statements of the first Informants shows that the dispute regarding digging a well on the property in question led to an altercation. It appears that in both the pending cases, joint Applications were given by the Applicants and first Informants for compounding the cases. The said Applications could not be considered by the learned trial Judge as the offence punishable under section 324 of the Indian Penal Code is not compoundable. On that ground, the joint Applications made by the parties were rejected.

6 In both these Applications, second Respondents have filed Affidavits recording that parties have decided to resolve the dispute with a view to bring about peace and harmony between them. As noted earlier, these are the cross cases arising out of a dispute about digging a well. The Affidavits on record show that the dispute has been completely settled. It cannot be said that the offences alleged are against the society at large or that they are of serious nature.

7 Therefore, in the light of the law laid down by the Apex Court in the case of **Gian Singh vs. State of Punjab & Another**¹, this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure Code, 1973. Accordingly, the Applications must succeed and we pass following order:

i) Rule issued in the Criminal Application No.1246 of 2015 is

¹ (2012) 10 SCC 303

made absolute in terms of prayer clause (3) which reads thus:

“(3) That this Hon'ble Court be pleased to issue appropriate writ, direction or order to quash the Regular Criminal Case No.785 of 2013 pending against Applicants before the learned 38th Judicial Magistrate First Class, Pune.”

- ii) Rule issued in the Criminal Application No.1247 of 2015 is made absolute in terms of prayer clause (3) which reads thus:

“(3) That this Hon'ble Court be pleased to issue appropriate writ, direction or order to quash the Regular Criminal Case No.872 of 2013 pending against Applicants before the learned 38th Judicial Magistrate First Class, Pune.”

(A.A. SAYED, J.)

(A.S. OKA, J.)

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