

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION**

**CRI. WRIT PETITION NO. 4101 OF 2016**

Mohammad Zafar Khan & Others ... Petitioners.

V/s.

The State of Maharashtra & Anr. ... Respondents.

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Mr. Parvez Memon i/by MZM Legal for the Petitioners.

Dr. F. R. Shaikh, APP for the Respondent No.1-State.

Mr. Dinesh Kadam, Advocate for Respondent No.2.

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**CORAM : V. M. KANADE AND  
Ms.NUTAN D.SARDESSAI, JJ.**

**DATE : 07<sup>th</sup> DECEMBER, 2016**

**P.C. :**

1 Heard the learned counsel appearing on behalf of the Petitioners, the learned counsel appearing on behalf of the Respondent No.2-Complainant and the learned APP for the State.

2 This writ petition is filed by the Petitioners for quashing the criminal complaint filed by the Respondent No.2-complainant which was registered with the Byculla Police Station, vide CR No. 342 of 2016 for the offences punishable

under sections 325,143, 144, 147, 148, 149, 504,506 of the Indian Penal Code.

3 Both the parties are relatives and stay in the same vicinity and that some of them are very young. It appears that after the accused/petitioners came out of the mosque, there was some altercation by them with the complainant, who happened to be the cousin of one of the accused, and they had assaulted the complainant by means of kicks and fist blows and one of accused assaulted the complainant with stick.

4 We have perused the medical papers submitted by the learned additional public prosecutor. We find that the injuries caused to the complainant are simple in nature and the complainant had suffered abrasion and blunt to the face, back and chest.

5 All the parties are present before us. Petitioner Nos.3 and 6 are of 25 years old. Other petitioners are drivers or contractors.

6 Though the facts of this case are governed by the judgment of the Apex Court in the case of **Gian Singh vs. State of Punjab & Anr.**, reported in (2012) 10 Supreme Court Cases 303, we asked the learned counsel appearing on behalf of the petitioners, whether in addition to quashing the criminal

complaint, both the parties would like to do something to ensure that the said incident may not be repeated again. The learned counsel after taking instructions from their clients have stated that they will offer a community service in the mosque outside which the said incident took place.

7           The complainant has stated that he has no objection if the criminal complaint is quashed. We have interviewed the complainant on the last occasion. Therefore, there is no impediment in quashing the criminal complaint. Two of the accused are quite young and we are of the view that voluntary offer given by them can be accepted so that it will have sobering effect on them in future and they will not take recourse to such physical violence. So far as the Code of Criminal Procedure or the Indian Penal Code is concerned, there is no provision for offering a community service and as such this court, cannot give such directions to the parties, who came before us for quashing of the criminal complaint. However, there is a change in the legal jurisprudence and we find that under the POCSO Act, there is reference made in the Act itself, that in addition to the penal consequences which are awarded to accused persons, the Court can also direct the accused, who are juvenile, to do the community services. The rationale behind very such a direction is to make young generation aware of their responsibilities and social obligations.

8        In present case, since the petitioners themselves have voluntarily offered to do some community services, we direct them including the complainant to work in the same mosque outside which the said incident took place for a period of two days i.e. on alternate Friday, commencing from 9<sup>th</sup> December, 2016 and 16<sup>th</sup> December, 2016.

9        The Writ Petition is allowed and the subject Criminal Complaint is quashed. The Petition is disposed of accordingly in the aforesaid terms.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J)

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