

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4658 OF 2015

1]	Ashish Dilip Dhanve	]
2]	Harish Suresh Pardeshi	]
3]	Kumar Vinod Gopal Shahu	]
4]	Pramod Gopal Shahu	]
5]	Mukesh Harishchandra Rathod	]
6]	Bharat Sanjay Aadav	]
7]	Vishal Ramesh Garate	]
8]	Akash Dilip Dhanve	]
9]	Bhavika Rajesh Upadhyay	]

..Petitioners

Versus

1]	State of Maharashtra	]
2]	Dipak Vinod Parmar.	]

..Respondents.

Mr. R. Y. Gaikwad for the Petitioner.
Mr. Sandesh D. Patil i/b A. M. Amin for Respondent No. 2
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.
Date : **February 23, 2016.**

P. C. :

1. Learned Counsel appearing for the Petitioner at the outset seeks leave to amend the prayer clause so as to correct the name of the Police Station. He also seeks leave to amend the cause title of the petition so as to implead Bhavika Rajesh Upadhyay as

Petitioner No.9 in this petition, as she also is arraigned as accused in the subject case. Leave granted. Necessary amendment be carried out forthwith.

2. Heard the learned Counsel appearing for the respective parties and learned APP for the State. The Petitioners have prayed for to invoke the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India to quash the proceedings of a Sessions case pending against them on the file of learned Sessions Judge, Greater Mumbai at Dindoshi, being Sessions Case No.115 of 2015. The said proceeding is the culmination of an investigation conducted pursuant to the FIR registered against the Petitioners with Gorai Police Station, as CR No.I/18/2015, wherein the allegations levelled against the Petitioners are of the commission of offences punishable under sections 397, 326, 324, 395, 143, 147, 149 read with 34 of the Indian Penal Code, 1860 and section 85 of the Maharashtra Prohibition Act.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of trial of above sessions case, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of

mutual settlement and pursuant to the understanding arrived at between them, the instant petition is filed for quashing the proceedings of above mentioned sessions case, by consent of original complainant Respondent No.2 herein.

4. Respondent No.2 has filed a affidavit wherein he has stated that he is not interested in continuing with the criminal prosecution of the Petitioners in the subject FIR and criminal case since all the disputes between himself and the Petitioners have been amicably settled. He has solemnly affirmed that he is withdrawing all the allegations made against the Petitioners and that he has no objection for quashing the FIR in question and proceedings of the Sessions case.

5. Respondent No.2 is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the FIR and criminal proceedings in question instituted at his instance against the Petitioners.

6. Admittedly, in respect of the very same incident, another FIR is registered at the instance of the Petitioners and their group against Respondent No.2 and his friends. The investigation into said FIR has also culminated into filing of charge-sheet and matter is now pending before the Sessions Judge. The quashment of that sessions case and FIR is sought by the 2nd Respondent and their group members by filing a separate writ petition, wherein the Petitioners herein have given consent for quashment. The learned Counsel appearing for the respective parties submitted that the parties have decided to put an end to all their disputes and forgive each other and they wish to lead a happy and peaceful life. They submitted that in order to establish healthy and cordial relationship amongst them, it would be just and proper that the prosecution against them should not be allowed to continue.

7. We have perused the FIR. It is really painful to note that the young boys in their twenties got drunk and got into a brawl after having gone to enjoy birthday in a resort and used the beer bottles in assaulting each other and committed riot. However, the fact remains that they are 1st time offenders and continuation of such proceeding would affect their future.

8. Without commenting in any manner on the nature of offence, we feel it would be just and proper in the present case to exercise our power to quash the proceedings for the reasons :

- (I) the disputes have been amicably settled between the parties and they have decided to bury the hatchet and live peacefully. They have undertaken before us not to indulge in any such act in future;
- (II) the Petitioners are the young boys in their early twenties and some of them are taking education, and continuation of prosecution will hamper their career;
- (III) the Petitioners have shown repentance and have voluntarily made a statement that as a mark of their repentance they will undertake any type of community service that may be ordered by this Court. Learned Counsel appearing for the Petitioners submitted that the Petitioners are willing to do cleaning, sweeping and mopping work at any Railway Station or School as a community service.

9. In exercise of power under section 482 of the the Code of Criminal Procedure, 1973, we are guided by the law laid down by the Apex Court in Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] **and** Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], and in the present case we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened as the parties have

decided to put an end to all acrimonies. We are of the view that in the backdrop of the aforesaid fact-situation, the continuation of prosecution of the Petitioners in the subject sessions case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the proceedings in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

10. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the criminal proceedings in question. In the result, petition is made absolute in terms of prayer clause (a), subject to the Petitioners rendering community service in the following terms :

- I) Petitioner Nos.1 to 4 shall render community service on every Sunday during 9.00 a.m. to 5.00 p.m. for the period of three months at Mira Bhayandar Municipal Corporation Gujarati School No.21, located opposite Shanti Nagar, Near Railway Station, Mira Road (East) – 401107.

- II) Petitioner Nos.5 to 8 shall render community service on every Sunday during 9.00 a.m. to 5.00 p.m. for the period of three months at Mira Bhayandar Municipal Corporation Urdu School No.34, situated above MBMC Ward Office No.4, Maya Nagar, Mira Road (East) – 401107.
- III) The community services to be rendered by the Petitioners include cleaning, sweeping, mopping, etc., of the school premises / area.
- IV) The Petitioners shall report to the Head Master/Principal of the said Schools with a copy of this order. The Investigating Officer shall also forward a copy of this order to the Head Master/Principal of the concerned Schools as well as to the Senior Inspector of Police within whose jurisdiction the aforesaid Schools fall.
- V) The Head Master / Principal of the said Schools shall allocate appropriate work/services to the Petitioners, which will be performed/rendered by them as part of community service, such as cleaning, sweeping and mopping of the school premises / area.
- VI) The Petitioners shall obtain certificates from the Head Master / Principal of the concerned Schools of having rendered community service satisfactorily for the period of three months and place the same on the record of this petition.
- VII) The Senior Inspector of Police of Mira Road Police Station shall also verify whether the Petitioners have rendered community service at the concerned Schools and place reports to that effect on the file of this Court.
- VIII) The quashing of the proceeding is subject to all the Petitioners producing certificates from the Head Master / Principal of the concerned Schools and placing the same on the record of this Court within 5 months from today. Failing to do so, the order quashing proceedings shall stand recalled automatically and petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]