

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4659 OF 2015

1]	Asalin Ambroz	]
2]	Frank Luis Lobo	]
3]	Aniruddha Binoy Ghatani	]
4]	Dipak Vinod Parmar	]
5]	Rohan Raju Owai	]
6]	Firoz Salim Khan	]
7]	Faisal Mahmad Javed	]
8]	Patrick A. Nadar	]
9]	Rohit Ashok Doiphode	]
10]	Jhonson S. Chandran	]

..Petitioners.

Versus

1]	State of Maharashtra	]
2]	Kumar V. Gopal Shahu	]
3]	Bhavika R. Upadhyay.	]

..Respondents.

Mr. Sandesh D. Patil i/b A. M. Amin for the Petitioners.
Mr. R. Y. Gaikwad 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. 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 Petitioner has 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.122 of 2015. The said proceeding is the culmination of investigation conducted pursuant to FIR registered against the Petitioners with Gorai Police Station, as CR No.I/19/2015, wherein the allegations levelled against the Petitioners are of the commission of the offences punishable under sections 324, 143, 147, 148, 149 and 509 read with 34 of the Indian Penal Code, 1860 and section 85 of the Maharashtra Prohibition Act. It is submitted by the learned Counsel that though the offences with which the Petitioners were charge-sheeted are triable by Magistrate, the case is committed to the Sessions Judge, it being cross case arising out of the same incident, in respect of which separate FIR was registered vide C.R.No. I/18/2015 (Gorai Police Station). In the said CR, after investigation charge-sheet was filed and subsequently the case has been committed to the Sessions Court.

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 and aggrieved girl, Respondent Nos. 2 and 3 herein.

4. Respondent Nos.2 and 3 have filed separate affidavits wherein they have stated that they are not interested in continuing with the criminal prosecution of the Petitioners in the subject FIR and criminal case since all the disputes between themselves and the Petitioners have been amicably settled. They have solemnly affirmed that they are withdrawing all the allegations made against the Petitioners and that they have no objection for quashing the FIR in question and proceedings of the Sessions case.

5. Respondent Nos. 2 and 3 are personally present before the Court. On specific query made by us, they submitted that they

have made the said affidavits on their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the FIR and criminal proceedings in question instituted at their 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 Nos.2 and 3 and their 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 and 3rd Respondents and their group members by filing a separate writ petition, wherein the Petitioner 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 be continued.

7. We have perused the FIR. It is really painful to note that the young boys in their twenties drunk and got into a brawl after having gone to enjoy the 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 aforestated 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...

FIR 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) The Petitioners 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 Road Railway Station. The community service include cleaning, sweeping, mopping, etc., of the railway station area.
- II) The Petitioners shall report to the Station Master of the Mira Road Railway Station with a copy of this order. The Investigating Officer shall also forward a copy of this order to the Station Master as well as to the Senior Inspector of Police within whose jurisdiction the aforesaid Railway Station falls.
- III) The Station Master of Mira Road Railway Station 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 railway station area.
- IV) The Petitioners shall obtain certificates from the concerned Station Master of having rendered community service satisfactorily for the period of three months and place the same on the record of this petition.

- V) The Senior Inspector of Police of Mira Road Police Station shall also verify whether the Petitioners have rendered community service at the Railway Station and place reports to that effect on the file of this Court.
- VI) The quashment of the proceeding is subject to all the Petitioners producing the certificates from the concerned Station Master 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.]