

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.31 of 2017

Mohd. Asgar Choudhari and Others.	..	Petitioners
Vs		
State of Maharashtra and Another.	..	Respondents
—		
Shri Arun Rajput i/b Ms. Anjali Patil for the Petitioners.		
Mrs.S.V.Sonawane, APP for the Respondent No.1.		
Shri Sunil D. Mishra for the Respondent No.2.		

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 2ND MARCH 2017

P.C.

1. Heard the learned counsel appearing for the Petitioners, the learned APP appearing for the first Respondent and the learned counsel appearing for the second Respondent.

2. The learned counsel appearing for Petitioners states that the Petitioners are seeking quashing of the First Information Report on the ground of settlement between the Petitioners and the second Respondent, who is the first informant and the father of the victim of the offence.

3. The First Information Report has been registered under Sections 498(A), 306 and 406 read with 34 of the Indian Penal Code. In fact, the chargesheet has been filed. We have perused the affidavit of the second Respondent. The affidavit is dated 2nd January 2017 which contains the statements which are completely contrary to the statement of the second Respondent recorded by the police on the basis of which First Information Report was registered. In Paragraph 5 of the affidavit, the second Respondent has stated that he was in a shocked state of mind due to sudden demise of his daughter. In Paragraph 6, he claims that the suicide was committed by his daughter while she was under depression.

4. The offence alleged is under Section 306 of the Indian Penal Code. There is no question of entertaining the Petition on the ground of settlement as the victim of the alleged offence is no more. Thus, the prayer for quashing the First Information Report on the ground of settlement cannot be entertained.

5. We may note here that there is a letter dated 17th February 2017 addressed by one Mohd. Islam Choudhary, who is admittedly a cousin of the second Respondent, to the Senior Inspector of Police, Deonar Police Station, Mumbai, a copy of which is sent to the Hon'ble Chief Justice of this Court in which it is alleged that there is a

settlement between the Petitioners and the second Respondent under which the second Respondent has received a monetary benefit of Rs.8 lakhs.

6. Even if we ignore the aforesaid letter, for the reasons recorded earlier, the prayer for quashing cannot be entertained as the victim of the offence is not more. Accordingly, the Writ Petition is rejected. However, we make it clear that this order will not preclude the Petitioners from applying for discharge. All the contentions in that behalf are kept open.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)