

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.9 OF 2017

Kumar Shambhu Kundar and Others. .. Applicants
Vs
The State of Maharashtra and Another. .. Respondents

—
Shri Vikas V. Khanolkar for the Applicants.
Dr.F.R.Shaikh, APP for the Respondent No.1.
Shri Vaibhav S. Khandkar for the Respondent No.2.
—

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 1ST FEBRUARY 2017

PC.

1. Rule. The learned APP waives service for the first Respondent. The Advocate for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) registered for the offences punishable under Sections 506(2), 323, 504 read with 34 of the Indian Penal Code. The offence is also registered under Section 3 read with Section 25 of the Arms Act, 1959. The second Respondent who is the first informant has filed an affidavit-in-reply contending that there is an amicable settlement of dispute between the Applicant and himself and therefore,

he has given no objection for quashing the FIR. The learned counsel appearing for the parties produced for perusal of the Court the receipts showing payment of total sum of Rs.40,000/- by the parties to a Charitable Trust by the name “Sri Rama Vittala Trust” at Bangalore. The original receipts are returned to the learned counsel with a direction to place photocopies thereof on record.

3. We have perused the documents forming part of the chargesheet. After having perused the documents forming part of the chargesheet, we are of the view that the offence punishable under the Arms Act is not made out. The dispute as reflected from the chargesheet appears to be a dispute between the individuals and considering the facts of the case, the offence alleged cannot be said to be against the Society at large. On their own, the parties have paid donation to a Charitable Trust.

4. In view of the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹, we find that this is a fit case to exercise the powers under Section 482 of the CrPC. There is a settlement of a dispute between the parties, and therefore, chances of conviction are very bleak.

1 (2012) 10 SCC 303

5. We, accordingly pass the following order.

ORDER :

(a) Rule is made absolute in terms of prayer clause (a),
which read thus;

“(a) That this Hon'ble Court be pleased to allow the present Application U/s. 482 of CR P.C. And quash the First Information Report in CR. No.352 of 2016 IN C.C. No.2841/PW/2016 lodged by the Respondent no.2 in Versova Police Station, Mumbai.”

(b) All parties to act upon an authenticated copy of this order.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)