

Rane

* 1/5 * APPLN-532-2017 (sr.908)
Wednesday, 16.8.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 532 OF 2017

Maqbool Azam Khan @ AkhilApplicant

V/s.

1. Miss. Razia Aamir Shaikh and Ors.Respondents

* * * * *

Mr. R.S. Singh, Advocate for the applicant.

Mr. Shivjeet S. Singh, Advocate for respondents no.1 and 2.

Mr. K.V. Saste, Additional Public Prosecutor for the State.

CORAM :-

R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :-

16TH AUGUST, 2017.

P.C. :-

1. The above application has been filed for quashing of the FIR No. 13 of 2017 lodged with Oshiwara Police Station for the offences punishable under Sections

354, 354(b) and 509 of Indian Penal Code. The First Informant is the respondent no.1 and the respondent no.2 herein is her elder sister. The offence alleged are both qua, respondents no.1 and 2. Respondent no.1 has filed her Affidavit dated 16th August, 2017 so has the respondent no.2 filed her Affidavit. The said Affidavits are identical in nature. Hence, the Affidavit of respondent no.1, Razia Aamir Shaikh would be referred to for the sake of convenience. In the said Affidavit, in para-5 it has been stated that, the accused, Maqbool Azam Khan @ Akhil is their family friend and that she and respondent no.2 know the accused as a person. It is further stated in para-7 that, she gives her consent to quash the case against the accused. It is further stated that the said consent has been given by her of her own free will, wish and desire and no threat, coercion or fraud is played upon her. As indicated above, the Affidavit of the respondent no.2 is identical. Respondent no.2 has stated likewise in para-14 of her Affidavit. The Respondent no.1 i.e. the

First Informant is present in Court. She is identified by her Learned Counsel, Shivjit Singh. She is also identified on the basis of pancard bearing No. GJZPS5467M. She states that, she is educated upto 12th standard and is presently 31 years of age. When put in the box, she further states that the Affidavit dated 16th August, 2017 is hers and that the signature appearing on the said Affidavit is also hers and the contents of the Affidavit are acceptable to her.

2. The Respondent no.2, Shaheen Siddiqui is also personally present in the Court. She is identified by the Learned Counsel, Mr. Shivjeet Singh. She is also identified by the accused who is also personally present in the Court.

3. The applicant i.e. the accused is also personally present in the Court. He is identified by his Aadhar Card bearing No. 3655 9710 7170. He is also identified by the

Learned Counsel appearing for him, Mr. Ranjit Singh. The applicant states that, he identifies both the respondents no.1 and 2 and is also aware of the contents of the Affidavit filed by respondents no.1 and 2.

4. In view of the aforesaid and in the light of the judgments of the Apex Court in the case of **Gian Singh V/s. State of Punjab, reported in (2012) 10 SCC 303** and **Narinder Singh V/s. State of Punjab, reported in (2014) 6 SCC 466**. No useful purpose would be served by keeping the proceedings pending. There is no impediment in quashing the proceedings. Hence, the above Criminal Application is allowed and made absolute in terms of prayer clause (b).

5. Since the machinery of this Court is used for settling the dispute, the applicant to pay costs quantified at Rs.10,000/- (Rs. Ten Thousand only) to the National Association of Blind, Worli within four weeks from date. If the costs are not paid and evidence of the same not filed in

this Court, then this Court would be constrained to adopt steps for recovery of costs, including by way of arrears of land revenue.

6. The Learned Counsel Mr. Shivjeet Singh undertakes to file his Affidavit within one week from today. Undertaking is accepted.

7. The Photocopy of the Pan Card of respondent no.1 and Aadhar Card of the accused is taken on record and marked 'X' for identification collectively.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)