

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2534 OF 2017

Zakiulla Nabban Siddiqui and anr. : Petitioners.
Versus
State of Maharashtra and ors. : Respondents.

Mr. Altab Khan i/by Ms. Anjali R Awasthi for the Petitioners.
Mrs. M M Deshmukh, Addl. PP for the Respondent/State.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**
DATE : 31st AUGUST 2017

P.C.

1 By the above Criminal Writ Petition the Applicants seeks quashing of the FIR being No.156 of 2012 registered with the Jogeshwari Police Station, Mumbai for the offences punishable under Sections 354, 323, 341, 504 and 34 of the Indian Penal Code and Section 8 and 12 of the POCSO Act, 2012. The first informant is the Respondent No.3 herein and the Respondent No.4 herein who has been joined by amending the Petition is the accused No.1 against whom the allegations have been made in the FIR. The Respondent No.3 was personally present in Court on the last occasion i.e. on 16/08/2017 on which day her statement was recorded that she has filed the affidavit which is annexed to the above Criminal Writ Petition at Exhibit H in which she has stated that she does not want to prosecute the aforesaid FIR registered with the Jogeshwari Police Station. In view of her pre-occupation in the capacity of

being a teacher with CAT Centre, she had expressed her inability to attend on the next date of hearing, her presence was accordingly exempted by the said order dated 16/08/2017 in the event of her inability to remain present on the day when the order was to be passed.

2 In so far as the affidavit filed by the Respondent No.3 is concerned, paragraph 2 of the said affidavit is material and is reproduced herein under :-

“2 I say that I am getting married in near future and I do not want to prosecute the accused named in the above FIR. Hence, I kindly pray to close further proceedings in the matter and to dispose of the case.”

The Respondent No.3 has filed further affidavit dated 07/08/2017. Paragraphs 2 and 3 of the said affidavit are material in the context of the and are reproduced herein under :-

“2 I say that today on 1st August, 2017, I have seen Photographs of the Petitioners when I confirmed it with my father and realized that the Petitioners are not the attackers who assaulted with fist blows and kicks on me. My father is social activist and hence he knows the Petitioners and I say that they are not Raju and Najjan named in the FIR.

3 I say that I am getting married in near future and I do not want to proceed further with the above FIR. Hence I kindly pray to close further proceedings in the matter and to dispose of the case.

3 By the said affidavits the Respondent No.1 i.e. the first informant has shown her disinclination to proceed with the FIR registered with the Jogeshwari Police Station. Hence even though the offences lodged against the Petitioners and the Respondent No.4 are non-compoundable, in the light of the affidavits filed by the Respondent No.3, no useful purpose would be served in keeping the proceedings pending as the chances of procuring a conviction are very remote.

4 The Respondent No.4 is personally present in Court. He is identified by his PAN Card No.ARSPB1653P.

5 Hence having regard to the aforesaid facts and having regard to the law laid down by the Apex Court in the matter of Narinder Singh and others vs State of Punjab and another, reported in 2014 AIR SCW 2065 as also the judgment of the Apex Court in the matter of Gian Singh vs. State of Punjab and anr. reported in (2012) 10 SCC 303, there is therefore now no impediment in quashing the subject FIR being C.R.No.156 of 2012 registered with the Jogeshwari Police Station, Mumbai. The above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (A). The above Criminal Writ Petition is accordingly disposed of.

6 In the facts and circumstances of the present case, the Petitioners

and the Respondent No.4 to pay costs of Rs.15,000/- i.e. Rs.5000/- each to the National Association of Blind, Worli, Mumbai within four weeks from date and obtain a receipt to that effect and file the receipt in the proceedings.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]