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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 940 OF 2017

Md. Umar Nasir Ahmed Khalifa
Aged: 38 years Occ: Commission Agent
R/at: 369, Muslim Paccha Peth
Solapur, Maharashtra 413002. & ors. ...Applicants

Versus

The State of Maharashtra
(at the instance of Jail Road Police
Station, Solapur) & Anr. ...Respondents

AND

CRIMINAL APPLICATION NO. 939 OF 2017

Iftekar Haji A Rashid Tuljapure
Aged: 35 years Occ: Commission Agent
R/at: 107, Somvar Peth, Solapur,
Maharashtra 413002 & ors. ...Applicants

Versus

The State of Maharashtra
(at the instance of Jail Road Police
Station, Solapur) & Anr. ...Respondents

Ms. Sonal V. Parab, i/b Rajeev Sawant & Asso., for the Applicants.

Mr. M.K. Kocharekar, for Respondent No. 2.

Mr. V.B. Konde Deshmukh, APP for the Respondent-State.

CORAM : SMT. VASANTI A. NAIK & RIYAZ I. CHAGLA, JJ.

DATE : 6 October 2017

ORAL JUDGMENT : ***[Per Smt. Vasanti A. Naik J.]***

The criminal applications are admitted and heard finally, at the stage of admission with the consent of the learned Counsel for the parties.

2. By criminal application No. 940 of 2017, the applicants seek the quashing and setting aside of the First Information Report registered against them with the Jail Road Police Station for the offences punishable under Sections 307, 323, 324, 504, 506, 143, 147, 148 and 149 of the Penal Code read with Section 135 of the Maharashtra Police Act. Similarly, the applicants in criminal application No. 939 of 2017 seek for the quashing and setting aside of the First Information Report No. 345 of 2017 registered against them with the Jail Road

Police Station for the offenecs punishable under Sections 307, 324, 504, 506, 143, 147, 148 and 149 of the Penal Code read with Sections 4 and 24 of the Arms Act.

3. The applicants and the non applicant No. 2-complainant in both the criminal applications are related to each other. The non applicant No. 2 in both the criminal applications had lodged the First Information Report on 2nd of August 2017 that they were some discussions and arguments between the labourers on the issue of loading of goods and a scuffle took place between the applicants and the non applicants on the basis of the two rival reports lodged by the non-applicant No. 2, the First Information Report was registered against the applicants. Since all the applicants and the non applicant No. 2 in both the criminal applications are closely related to each other, in as much as they are the uncles or the nephews or the first cousins of each other, they have decided to settle the matter amicably so that they can live in harmony, in future. With a view to end the hostality between them, as they are closely related with each other and they carry on similar business, they have decided to

seek an order, quashing and setting aside the First Information Report registered against the applicants in both the criminal applications. According to the applicant and the non applicant No. 2 in both the criminal applications, if the First Information Report registered against the applicants is not quashed and set aside, the enmity between the parties could continue. It is stated that since the non applicant No. 2 in both the criminal applications are not desirous of prosecuting the matters against the applicants in the respective criminal applications, it is unlikely that the prosecution would result in the conviction of the applicants.

4. The applicants and the non applicants in both the criminal applications are personally present in the Court today. They are identified by their respective Counsel. Each of them have filed an affidavit and their aadhar cards are also annexed to the applications/affidavits. Since the applicants and the non applicant No. 2 in the criminal applications are present in the Court, we had made a query whether they have settled their disputes and whether the non applicant No. 2 in each of the

criminal applications is not desirous of prosecuting the matter against the respective applicants. The non applicant No. 2 in the criminal applications have stated that they have indeed settled the disputes amicably and they desire that the First Information Report registered against the respective applicants should be quashed and set aside. They have stated that they are closely related to each other and if the First Information Report is not quashed and set aside and the criminal trial is proceeded with, the hostility between the parties may continue. It is stated that in the interest of justice, the First Information Report registered against the applicants in each of the criminal applications should be quashed and set aside.

5. After hearing the applicants and the non applicant No. 2 who are personally present in the Court today, we find that with a view to prevent the abuse of the process of Court and to secure the ends of justice, it would be necessary to quash and set aside the First Information Report registered against the applicants on the basis of the reports lodged by the non applicant No. 2 in each of the criminal applications. The parties

are very closely related to each other. The animosity between the parties may continue, if the First Information Report registered against the applicants are not quashed and set aside. In the judgment of the Hon'ble Supreme Court in the case of ***Narinder Singh vs. State of Punjab***[1], the Hon'ble Supreme Court had quashed and set aside the First Information Report registered against the accused therein for the offences punishable under Section 307 of the Indian Penal Code. The settlement of the dispute between the parties, according to the Hon'ble Supreme Court could itself be one of the considerations for quashing and setting aside the First Information Report. Since the non applicant No. 2 in both the criminal applications are not desirous of prosecuting the applicants, it is unlikely that the prosecution would result in the conviction of the applicants. Hence, by following the law laid down by the Hon'ble Supreme Court in the judgment in the case of ***Narinder Singh vs. State of Punjab*** (supra) and ***Gian Singh Vs. State of Punjab***[2], it would be necessary to quash and set aside the First Information

1 ***(2014)6 AIR SCC 466***

2 ***(2012)10 SCC 303***

Reports registered against the applicants for the offences punishable under Sections 307, 323, 324, 504, 506, 143, 146, 147, 148 and 149 of the Penal Code and the provisions of the Arms Act.

6. Hence, for the reasons aforesaid, the criminal applications are allowed. The First Information Report registered against the applicants in criminal application No. 940 of 2017, bearing No. 346 of 2017, for the offences punishable under Sections 307, 323, 324, 504, 506, 143, 147, 148 and 149 of the Penal Code read with Section 135 of the Maharashtra Police Act is hereby quashed and set aside. So also, the First Information Report registered against the applicants in criminal application No. 939 of 2017 bearing No. 345 of 2017 for the offences punishable under Sections 307, 324, 504, 506, 143, 147, 148 and 149 of the Penal Code read with Sections 4 and 24 of the Arms Act is hereby quashed and set aside.

7. Order accordingly.

[RIYAZ I. CHAGLA J.] **[SMT. VASANTI A NAIK, J.]**