

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

CRIMINAL APPLICATION NO.959 OF 2017

Riddhi Bimal Mehta and anr. : Applicants.
Versus
The State of Maharashtra and ors. : Respondents.

**WITH
CRIMINAL APPLICATION NO.962 OF 2017**

Ubaid Abdul Aziz Barudgar : Applicant.
Versus
The State of Maharashtra and ors. : Respondents.

**ALONG WITH
CRIMINAL WRIT PETITION NO.3393 OF 2017**

Ayesha Salim Khan and anr. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

**WITH
WRIT PETITION NO.3584 OF 2017**

Kurush Jani s/o Khosrow Kazerooni Zadeh : Petitioner.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. S D Pandey for the Applicants in Application Nos.959/2017 and 962/2017 and for the Respondent No.2 in Writ Petition Nos.3393/2017 and 3584/2017.

Mr. J B Mishra for the Petitioners in Writ Petition Nos.3393/2017 and 3584/2017 and for the Respondent No.3 in Application Nos.959/2017 and 962/2017.

Mr. K V Saste, Addl. PP for the Respondent/State in Application No.959/2017 and Writ Petition No.3393/2017.

Mrs. S D Shinde, APP for the Respondent/State in Application No.962/2017 and Writ Petition No.3584/2017.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**
DATE : 13th September 2017

P.C.

1 Mentioned for being taken out of turn in view of the fact that the quashing is sought by consent.

2 By the above Criminal Applications and the Writ Petitions, the Applicants/Petitioners seek quashing of the FIR No.61 of 2017 in CC No.382/PW/2017 lodged with the Tardeo Police Station (subject matter of Application Nos.959/2017 and 962/2017), and the FIR No.65 of 2017 lodged with the Tardeo Police Station (subject matter of the Writ Petition Nos.3393/2017 and 3584/2017). The said FIRs have been lodged by Ayesha Khan (FIR No.61/2017) and Riddhi Mehta (FIR No.65/2017). Hence the said FIRs had arisen on account of the disputes between the parties. Both the first informants and the accused are in the age group of 21 to 23 years. The FIR No.61/2017 has been lodged for the offences punishable under Section 509, 354, 504, 323 and 34 of the Indian Penal Code. The Fir No.65 has been lodged for the offences punishable under Section 354, 324, 504, 506, 34 and 323 of the Indian Penal Code.

3 The first informant i.e. the Respondent No.3 Ayesha Khan has filed her Affidavit in the above Application No.959 of 2017 which has been tendered by the learned counsel appearing for her Shri J B Mishra. The said Affidavit is

affirmed before the Notary Public Mrs. Aliya N Pathan, Notary Greater Mumbai bearing Notarial Register No.26633 dated 13/09/2017. In the context of the relief sought in the above Applications, paragraph 5 of the said Affidavit of the first informant Ayesha Khan is material and is reproduced herein under :-

“5 I have no grievance of any nature against any of the Applicant above named. I have no objection if this Hon'ble Court quashes the First Information Report No.61 of 2017 lodged against the Applicants above named, with Tardeo Police Station, Mumbai, for the alleged offenses under sections 354, 509, 504, 323, 34 of the Indian Penal Code. I hereby give my free and voluntary consent for quashing of said F.I.R. No.61 of 2017 against the Applicants/accused persons. I am filing this affidavit out of my free will and consent and without any undue pressure, fraud or coercion.”

4 The first informant i.e. the Respondent No.2 – Riddhi Mehta has filed her two separate Affidavits in each of the above Writ Petitions which have been tendered by the learned counsel appearing for her Shri S D Pandey. The said Affidavits have been affirmed in this Court. In the context of the relief sought, paragraphs 2, 3 and 4 of the said Affidavits are material and are reproduced herein under “-

“2 I state that after registering the aforesaid FIR, family friends, my parents and family members of the applicants, society members have intervened and they resolved the dispute between me and the Petitioners amicably.

3 I state that I have no intention to pursue the case further against all the 3 persons i.e. (1) Ayesha Salim Khan, (2) Bhavesh M Thakkar and (3) Kurushjani

Kazerooni Zadeh

4 I state that I am executing this affidavit with my own will and consent without any due coercion, force from the applicants or any body else in order to produce the same before the Hon'ble High Court in the above referred application to enable this Hon'ble High Court to quash the FIR being C.R. No.65 of 2017 was registered by Tardeo Police Station for offence u/sections 354, 324, 323, 504 r/w 34 of IPC, against the all the 3 accused i.e. (1) Ayesha Salim Khan (2) Bhavesh M. Thakkar and (3) Kurushjani Kazerooni Zadeh.”

5 The first informant Ayesha Khan who has filed the FIR No.61 of 2017 is personally present in Court. She is identified by the learned counsel Shri J B Mishra. To her Affidavit is also annexed the photo copy of her Passport and her PAN Card bearing No.CQRPK6664F. When put in the box and queried she states that the Affidavit tendered by the learned counsel Shri J B Mishra bearing today's date is hers. She further states that the contents of the said Affidavit are acceptable to her and that she has filed the said Affidavit of her own free will and volition.

6 The first informant Riddhi Mehta who has filed the FIR No.65 of 2017 is also personally present in Court. She is identified by the learned counsel Shri S D Pandey. She is also identified by her Aadhar Card bearing No.5138 7926 3847, a photo copy of which is tendered across the bar. When put in the box and queried she states that the Affidavits tendered by the learned counsel Shri S D Pandey bearing today's date is hers. She further states

that the contents of the said Affidavits are acceptable to her and that she has filed the said Affidavits of her own free will and volition.

7 Hence in filing of the said Affidavits, both the first informants have made it eloquently clear that they have amicably resolved the dispute and that they are not desirous of proceeding with the aforesaid FIRs that they have registered with the Tardeo Police Station.

8 In the light of the Affidavits of the first informants Ayesha Khan and Riddhi Mehta and having regard to the law laid down by the Apex Court in the matter of *Narinder Singh vs. State of Punjab*, 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 no impediment in quashing the proceedings in view of the amicable settlement arrived at between the parties.

9 Though certain offences are not compoundable, having regard to the aforesaid facts, no useful purpose would be served in continuing with the proceedings. There is therefore no impediment in quashing the FIR No.61 of 2017 (subject matter of Application Nos.959/2017 and 962/2017), and the FIR No.65 of 2017 lodged with the Tardeo Police Station (subject matter of the Writ Petition Nos.3393/2017 and 3584/2017) lodged with the Tardeo Police

Station.

10 In the light of the above, the above Application Nos. 959 of 2017 and 962 of 2017 and the Writ Petition Nos. 3393 of 2017 and 3584 of 2017 are accordingly allowed and made absolute in terms of prayer clause (a). The charge-sheet bearing No.CC No.382/PW of 2017 pending before the 4th Metropolitan Magistrate Court at Girgaon stands quashed and set aside. The above Applications and Writ Petitions are accordingly disposed of.

8 The Petitioners in the two sets of Petitions and the Respondent No.2 in the aforesaid sets of Petitions to pay costs of Rs.10000/- each i.e. both in their capacity as accused as well as complaint i.e. hence where the complainant is the accused in other FIR, he or she would pay costs of Rs.20000/-. The same to be deposited with the Police Welfare Fund, Commissioner of Police, Mumbai within eight weeks from date and obtain a receipt and file in the Registry of this Court.

9 The learned counsel Shri J B Mishra states that he would file his vakalatnama for the Respondent No.3 in Application Nos.959/2017 and 962/2017 during the course of the week. Statement accepted.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]