

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1389 OF 2016

Kailash Ashok Kumar. .. Applicant.
Vs
The State of Maharashtra and Another. .. Respondents

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Shri Himanshu S. Shinde for the Applicant.
Smt.S.V.Sonawane, APP for the Respondent No.1.
Ms.Raksha Dhotre for the Respondent No.2.
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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 8TH 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) lodged at the instance of the second Respondent for the offences punishable under Sections 354(B), 509 of the Indian Penal Code as well as Sections 66, 66(C) and 66 (D) of the Information Technology Act, 2000. The allegation made by the second Respondent is that on her Instagram Social Networking Site Account, certain obscene photographs and objectionable material were uploaded.

Further the allegation is that certain objectionable photographs of the second Respondent were sent on E-mail address of her father as well as her friends. It is alleged that the photographs were sent by hacking her E-mail account.

3. The prayer for quashing is made on the ground of settlement. It is alleged in the Application that the Applicant is well-known to the second Respondent for a long time and, there was an settlement between them. The second Respondent has filed an affidavit stating that on the basis of the advise from the members of her family, she has resolved her dispute with the Applicant and, therefore, she has consented for quashing the FIR.

4. After having perused the FIR and the allegations made therein, we find that the offence alleged cannot be said to be against the Society at large. The dispute due to misunderstanding between the two individuals led to the registration of the said offence. Now, the dispute is completely settled. The second Respondent has paid the amount of Rs.12,000/- by way of donation to the Maharashtra State Legal Services Authority. A xerox copy of receipt showing payment of the said amount is produced on record.

5. Considering the settlement between the Applicant and the second Respondent and the nature of the offences, no purpose would be served by continuing the criminal proceedings. Therefore, in our view, this is a fit case to exercise the power of quashing the FIR under Section 482 of the CrPC.

6. Accordingly, we pass the following order.

ORDER :

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

“(a) This Hon'ble Court may kindly quash the F.I.R.no-382/2016 registered with Oshiwara Police Station for offences u/s 354(D), 509 of IPC & Section 66, 66(c), 66(d) of the I.T. Act 2000, dated 17/08/2016 at the instance of the Respondent No.2 (Orig-Complainant)”.

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)