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

CRIMINAL APPLICATION NO.294 OF 2018

Chirag Buchanna Golapelly and Anr. ...Applicants
Versus
The State of Maharashtra and Anr. ...Respondents

Mr.H.S.Shinde, for the Applicants.

Mr.Deepak Thakare, P.P. a/w Mrs. P.P.Shinde, A.P.P for the Respondent-State.

Ms.R.R.Dhore, for the Respondent No.2.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 7th JUNE, 2018

P.C. :

1. The Applicants have approached this Court by way of the above Application for quashing and setting aside the proceedings being C.C. No.1195/PW/2016, pending on the file of the learned Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai. The said case has arisen out of the FIR bearing No.328 of 2015 registered with Versova Police Station, Mumbai, for the offences punishable u/s 324, 504 and 34 of the Indian Penal Code. The Respondent No.2 is the First Informant. It is

not necessary to dilate further on facts in view of the fact that the first informant i.e. the Respondent No.2 herein has filed an Affidavit. In the context of the relief sought in the above Application, paragraphs 9, 11, 12 and 14 of the said affidavit are material and are reproduced hereinunder:-

- “9. I say and submit that in view of the amicable settlement the entire proceedings is abuse of the process of law and will only result in the wastage of time and efforts.
11. I say and submit that I have no any objection if this Hon'ble Court allows the present Criminal Application No.294 of 2018 and the said matter is quashed against the Applicant.
12. I say and submit that I am making this Affidavit without any kind of force, coercion or any kind of undue influence from any person and there is no any collusion between us.
14. I say and submit that in view of the amicable settlement the C.C. No. 1195/PW/2016 pending in the file of the Ld. M.M. Railway Mobile Court at Andheri, arising out of the FIR No.328/2015 dated 02/10/2015 registered with Versova police station for offences U/s. 324, 504 & 34 of I.P.C., may kindly be quashed and set aside.”

2. The Respondent No.2 is personally present in Court. He is

identified by the learned Counsel Ms.Dhore. He is also identified by his Aadhar Card bearing No. 3373 4757 4241, which bears the address of Karimnagar, Telangana – 505526. When put in the box and queried, the Respondent No.2 states that the contents of the affidavit have been explained to him by the learned counsel appearing for him in the above application and that he has understood the contents. He further states that he is not desirous of proceeding with the case in question as he resides away from Mumbai. He lastly states that he has signed the affidavit which is tendered today on his own free will and volition. The said affidavit is affirmed before Mr.D.R.Sawant, Advocate and Notary, having its office at Tardeo, Mumbai – 400 007. The Applicant No.1-Chirag Buchanna Golapelly is also personally present in the Court. He is identified by the learned Counsel Mr.Shinde. He is also identified by his Aadhar Card bearing No. 2117 9009 6335. He states that in view of the settlement that has taken place between the Applicant No.1 and the Respondent No.2, the Respondent No.2 does not desire to proceed with the case in question.

3. Having regard to the affidavit filed by the Respondent No.2 and the statements made by the Respondent No.2 and the Applicant No.1

when put in the box and queried, the same indicate that the parties have resolved their dispute as a result of which the Respondent No.2 does not desire to proceed with the case in question. We have also perused the injury certificate in respect of the Respondent No.2 wherein it has been recorded that the injuries are simple in nature.

4. Having regard to the facts aforestated and the dictum of the Apex Court in the cases of *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², now no useful purpose would be served in keeping the proceedings pending as the First Informant is not desirous of proceeding with the proceedings in question.

5. The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a).

6. The above Criminal Application is accordingly disposed of.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065