

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

CRIMINAL APPLICATION NO.389 OF 2018

Santosh Ramsingh Jorwal
@ Santosh Shivchand Jorwal & Ors. Applicants

versus

The State of Maharashtra & Anr. ... Respondents

.....

- Mr.S.S. Karmarkar, Advocate for the Applicants.
- Mr.V.G. Dali, Advocate for Respondent No.2.
- Mr.K.V Saste, Addl.P.P. for the State/Respondent.

**WITH
CRIMINAL APPLICATION NO.390 OF 2018**

Ryan Vincent Gomes
@ Ryan Wilson Gomes Applicant

versus

The State of Maharashtra & Anr. ... Respondents

.....

- Mr.V.G. Dali, Advocate for the Applicant.
- Mr.S.S. Karmarkar, Advocate for Respondent No.2.
- Mr.K.V. Saste, Addl.P.P. for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 03rd MAY, 2018.**

P.C. :

1. The above Criminal Application No.389/18 has been filed for quashing of the proceedings being C.C.No.1346/PW/2014 pending on the file of learned Metropolitan Magistrate, 68th Court, Borivali, Mumbai. The said has arisen out of FIR being C.R.No.76/14 registered with MHB Police Station, Mumbai, on 17/03/2014 for the offences punishable u/s 324, 323, 504 r/w 34 of IPC.
2. Insofar as Criminal Application No.390/18 is concerned, the said Application seeks the quashing and setting aside of the proceedings being C.C.No.1345/PW/2014 pending on the file of the same learned Metropolitan Magistrate. The said case has arisen out of FIR being C.R.No.75/14 for the offences punishable u/s 354, 323, and 504 of IPC.
3. Insofar as the Applicants in Criminal Application No.389/18 are concerned, they are the accused in the FIR No.76/14 and insofar as the Applicant in Criminal Application

No.390/18 is concerned, he is the accused in FIR No.75/14. The said FIR was registered as a consequence of the incident which took place on 17/03/2014, wherein the First Informant in FIR No.75/14 is concerned. The second FIR i.e. No.76/14 was in the aftermath of the incident which is the subject matter of the said FIR No.75/14. It is not necessary to dilate further on facts as the Respondent No.2 in Application No.390/18 has filed an affidavit whereby she has given her consent for quashing of the FIR No.75/14. Likewise the First Informant in FIR No.76/14 i.e. the Respondent No.2 in the said Criminal Application No.389/18 has also filed an affidavit giving his consent for quashing of the said FIR.

4. In the context of relief sought in the above Application paragraph No.7 of the affidavit of Smt.Mangala Shivchand Jorwal, who is the First Informant in FIR No.75/14 is material and is reproduced hereinunder;

“7. I say that I am making this Affidavit to support the Application of the Applicant herein to quash the

proceedings against the Applicant herein, in connection to the C. R. No.75 of 2014, pending before the Ld. Metropolitan Magistrate's 68th Court, Borivali, Mumbai bearing C.C.No. 1345/PW/2014.”

5. Insofar as the second FIR is concerned i.e. No.76/14, paragraph No.5 of the affidavit of Rohan Sunil Lasod is material and is reproduced hereinunder;

“5. I say that, I have no objection, if the above Application is allowed and the case against the Applicants herein is quashed/set.”

6. The First Informant Smt.Mangala Shivchand Jorwal is personally present in Court. She is identified by learned Counsel Mr.S.S.Karmarkar. She is also identified by her Aadhar Card bearing No.3275 8173 0729. When put in the box and queried she states that she has been read over and explained the contents of her affidavit dated 19/03/2018 filed in Criminal Application No.390/18. She further states that she has understood the contents. She further states that she has signed

the said affidavit of her own free will and volition and that in view of the settlement between the parties, she does not desire to proceed with the case in question.

7. The first informant in the second FIR Rohan Sunil Lasod is also personally present in Court. He is identified by learned Counsel Mr.V.G. Dali. He is also identified by his passport bearing No.L-3636433. When put in the box and queried, he states that he has read and understood the contents of his affidavit dated 19/03/2018. He further states that in view of the settlement between the parties, he does not desire to proceed with the case in question.

8. Insofar as FIR being C.R.No.76/14 is concerned, the victim Rahul Aneel Lasod has filed an affidavit. In the said affidavit he has stated that the other victim i.e. his brother Arpit Aneel Rasod is not in a position to come today as he is studying in the University of Texas at Arlington. He further states that he has informed Arpit about the development in the above

Application. He further states that his brother has no objection if the above Criminal Application is allowed.

9. Rahul Aneel Lasod as indicated above is personally present in Court. He is identified by learned Counsel Mr.V.G. Dali. He is also identified by his Driving License No.MH02-20140043851. When put in the box and queried he reiterates what has been stated in the affidavit. So far as his brother is concerned, he states that he has read and understood the contents of the affidavit filed on his behalf and that he has signed the affidavit of his own free will and volition.

10. The Applicant Ryan Wilson Gomes is also present in Court. He is identified by learned Counsel Mr.V.G. Dali. He is also identified by his Aadhar Card No.8204 8265 4584. He has accepted the factum of settlement having taken place between the parties, as a result of which the Respondent No.2 i.e. Smt.Mangala Shivchand Jorwal is not desirous of proceeding with the case in question.

11. The Applicant No.1 Santosh Ramsingh Jorwal is also personally present in Court. He is identified by the learned Counsel Mr.S.S.Karmarkar. He is also identified by Aadhar Card No.5715 8803 5797. When put in the box and queried, he accepts the factum of the settlement having taken place between the parties.
12. Having regard to the affidavit filed by the first informants in both the Criminal Applications, the affidavit filed by Rahul Aneel Lasod who is one of the victims, as also having regard to the statements made by the Applicants when put in the box and queried the same indicate that the parties have settled their dispute, as a result of which they do not desire to proceed with the case in question. It is not necessary to record the statements of other Applicants in Criminal Application No.389/18, in view of the statement recorded of Santosh Ramsingh Jorwal.

13. Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s. State of Punjab & Anr. Reported in (2012) 10 SCC 303 and Narinder Singh & Ors. V/s. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Applications. No useful purpose would be served in keeping the proceedings pending.

14. The above Criminal Applications are therefore required to be allowed and are accordingly allowed in terms of prayer clauses (a). The Applicants in Criminal Application No.389/18 to deposit costs of Rs.2,000/- with the Kirtikar Law Library, High Court, Mumbai, within six weeks from date. Receipt to be obtained and filed in the Registry.

15. The Applicant in Criminal Application No.390/18 to deposit costs of Rs.5,000/- with the State Legal Aid Fund, within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)