

Amk

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

CRIMINAL APPLICATION NO. 411 OF 2018

Hasmukh Tribhuvandas Gondiya & Ors. .. Applicants
Vs.
The State of Maharashtra & Anr. .. Respondents

**WITH
CRIMINAL APPLICATION NO. 420 OF 2018**

Madan Chaudhary .. Applicant
Vs.
The State of Maharashtra & Anr. .. Respondents

Mr. Balkrishna D. Joshi for the Applicant in APL 411/18 and Respondent No.2 in APL 420/18.

Mr. Ashish S. Sawant for the Applicant in APL 420/18 and Respondent No.2 in APL 411/18.

Mr. Deepak Thakare, PP & GP a/w. Mr. Rajan Salvi, APP for the Respondent No.1-State.

**CORAM : A. A. SAYED &
RAVINDRA V. GHUGE, JJ.**
DATE : 16th APRIL, 2018.

P. C. :

1. The Applicants are present in Court and have been identified by their respective Counsel.
2. Criminal Application No. 411 of 2018 is filed for quashing C. R. No.36 of 2018 lodged with Kasa Police Station, District Palghar at the instance of Complainant Madan Bhalaji Chaudhary, who is the owner of Baba Ramdev Kathiyawadi Hotel. The said C. R. No. 36 of 2018 is registered for the offences punishable under Sections 141, 143, 146, 149,

323, 324, 341, 387, 504 and 506 of the Indian Penal Code. It was alleged in the FIR that the Applicants (including Hasmukh Gondiya and Chandrakant Gondiya who are the owners of Jalaram Kathiyawadi Hotel) had assaulted the Complainant Madan Bhalaji Chaudhary and took him to a room and tied him with a rope and demanded a sum of Rs.5 lakhs from him. The said Madan Bhalaji Chaudhary is the Applicant in Criminal Application No. 420 of 2018.

3. So far as Criminal Application No. 420 of 2018 is concerned, the same is filed for quashing the FIR registered vide C. R. No. 37/18 lodged with the same Police Station i.e. Kasa Police Station at the instance of the Complainant Chandrakant Kulkarni who is a waiter working for Hasmukh Gondiya and Chandrakant Gondiya, the Applicant Nos.1 and 2 in Criminal Application No. 411 of 2018. The said C. R. No. 37 of 2018 was registered for the offences punishable under Sections 392, 323 and 34 of the Indian Penal Code. It was alleged that the Applicant-Madan Bhalaji Choudhary (Complainant in C. R. No. 36 of 2018) and one unknown person had assaulted Chandrakant Gondiya (Applicant No.2 in Criminal Application No. 411 of 2018) the owner of Jalaram Kathiyawadi Hotel and the unknown person ran away with golden chain of the said Chandrakant Gondiya.

4. We have heard learned Counsel for the Applicant in Criminal Application No. 411 of 2018 and the learned Counsel for the Applicant in Criminal Application No. 420 of 2018 and the learned APP. Learned

Counsel submitted that these are essentially cross complaints between the Applicants in Criminal Application No. 411 of 2018 and the Applicant in Criminal Application No. 420 of 2018. It is submitted by the learned Counsel that the dispute between the parties has been settled and the FIRs were lodged in the heat of moment. The Affidavit of Madan Choudhary, the Complainant in Criminal Application No. 411 of 2018 and the Affidavit of Chandrakant Narhari Kulkarni, Complainant in Criminal Application No. 420 of 2018 are tendered in Court stating that they have no objection to quash the FIRs. It is submitted that there was no injury and no weapon was used by the parties and the altercation had occurred due to heat of moment between the Applicants over a cook Sunil who was working at Jalaram Kathiyawadi Hotel which belongs to Applicant Nos. 1 and 2 (Gondiyas) in Criminal Application No. 411 of 2018. The learned Counsel have placed reliance on the Judgment in the case of **Narinder Singh & Ors. Vs. State of Punjab & Anr.** reported in **(2014) 6 SCC 466**, in particular paragraph 24 thereof which lays down the principles upon which the High Court exercises powers under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing the settlement or directing to continue the criminal proceedings.

5. On perusal of the FIRs, it is seen that the offences cannot be said to be offences against the society at large and essentially arise out of a quarrel over a cook. In view of the settlement of the disputes and in light of the decision of the Supreme Court in the case **Narinder Singh & Ors.**

Vs. State of Punjab & Anr. (supra), this is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure. Both the learned Counsel appearing for the Applicants in the Criminal Applications state on instructions that the Applicants are willing to pay donation to the Police Welfare Fund. We accept the statement. We dispose of both the Applications by passing the following order:

- (i) The Applicants in Criminal Application No. 411 of 2018 and the Applicant in Criminal Application No. 420 of 2018 shall pay a sum of Rs.15,000/- each (total Rs.75,000/-) to the Police Welfare Fund within a period of four weeks from today.
 - (ii) Police to accept the amount.
 - (iii) Both the Applications to stand disposed of.
6. Place both the Applications for reporting compliance on 11.06.2018.

[RAVINDRA V. GHUGE, J.]

[A. A. SAYED, J.]