

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

CRIMINAL APPLICATION NO.659 OF 2018

Mohd. Hanif Qayyum Chauhan and ors. : Applicants.
Versus
The State of Maharashtra and ors. : Respondents.

**ALONG WITH
CRIMINAL APPLICATION NO.660 OF 2018**

Mohammed Kamil Mohammed Amin Ansari : Applicants.
and ors.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. Mukesh K Badsiwala for the Applicants in Criminal Application No.659 of 2018 and for the Respondent Nos.2 to 4 in Criminal Application No.660 of 2018.

Mr. S R Gaud for the Applicants in Criminal Application No.660 of 2018 and for the Respondent Nos.2 to 4 in Criminal Application No.659 of 2018.

Mr. Deepak Thakare, PP a/w Mr. R M Pethe for the Respondent/State.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 02nd JULY 2018

P.C.

1 The above Criminal Application No.659 of 2018 has been filed for quashing of the FIR being C.R. No.190 of 2018 registered with Nagpada Police Station on 03/04/2018 for the offences punishable under Sections 324, 504, 506, 143, 144, 147, 148 and 149 of the Indian Penal Code and, the above Criminal Application No.660 of 2018 has been for quashing of the FIR being

C.R. No.189 of 2018 registered with Nagpada Police Station on 03/04/2018 for the offences punishable under Sections 324, 354, 504, 506, 143, 144, 147, 148 and 149 of the Indian Penal Code.

2 The said FIRs are the fall out of the incident between the two groups i.e. the Applicants in each of the above Criminal Applications who are local residents. It is not necessary to dilate further on facts as the first informants in both the Criminal Applications have filed the affidavits giving their no objection to the quashing of the respective FIRS registered by them.

3 In so far as FIR being CR No.190 of 2018 is concerned, an affidavit bearing today's date i.e. 02/07/2018 has been filed by the Respondent Nos. 2 to 4 i.e. Mohammed Kamil Mohammed Amin Ansari, Mohd. Owais Mohd. Kamil Ansari and Mohd. Farhan Mohd. Kamil Ansari.

4 In so far as FIR being CR No.189 of 2018 is concerned, an affidavit bearing today's date i.e. 02/07/2018 has been filed by the Respondent Nos.2 to 4 i.e. Mohammed Hanif Qayyum Chauhan, Mrs. Atiya Zabeen Hanif Chauhan and Amir Ahmed Ali Ahmed Khan.

5 The said affidavits refer to the settlement which has been arrived at between the parties due to intervention of the elders in the families and the

society members.

6 In so far as the Respondent No.3 in Criminal Application No.660 of 2018 Mrs. Atiya Zabeen Hanif Chauhan is concerned, she has stated in the said affidavit dated that since her husband is willing to settle the dispute, she desires to withdraw the allegation of molestation made by her in the FIR. In paragraph 8 of the said affidavit, the consent of the said Respondents has been specifically averred. Hence paragraph 8 of the said affidavit is therefore material and is reproduced herein under for the sake of ready reference :-

“8 We say that we all are giving our free consent for quashing of above referred criminal proceeding with our conscious mind, free will and without any sort of pressure, coercion, fraud applied on me by any person(s). Furthermore we are also aware about the effect of the present affidavit-in-reply more specifically the FIR bearing its C.R. No.189 of 2018 pending in file of Nagpada against present Applicants as well as such other unknown accused may get quashed, for which we are recording our free consent.

7 In so far as FIR being CR No.190 of 2018 is concerned, the consent is specifically recorded in paragraph 7 of the said affidavit dated 02/07/2018 filed in Criminal Application No.659 of 2018 which is reproduced herein under for the sake of ready reference :-

“7 We say that we all are giving our free consent for quashing of above referred criminal proceeding with our conscious mind, free will and without any sort of pressure, coercion, fraud applied on me by any

person(s). Furthermore we are also aware about the effect of the present affidavit-in-reply more specifically the FIR bearing its C.R. No.190 of 2018 pending in file of Nagpada against present Applicants as well as such other unknown accused may get quashed, for which we are recording our free consent.”

8 The Respondent No.2 Mohammed Kamil Mohammed Amin Ansari in Criminal Application No.659 of 2018 is personally present in Court. He is identified by the learned counsel Shri S R Gaud. He is also identified by his Aadhar Card bearing No.573313886582. When put in the box and queried he states that he has been read over and explained the contents of the said affidavit dated 02/07/2018 and affirmed in this Court. He further states that he has understood the said contents. He further states that on account of the settlement between the parties, that he and other Respondents are not desirous of proceeding with FIR in question.

9 In view of the statement recorded of the Respondent No.2 Mohammed Kamil Mohammed Amin Ansari, it is not necessary to record the statement of the Respondent Nos.3 and 4 who are the sons of the Respondent No.2.

10 The Respondent No.2 – Mohd. Hanif Qayyum Chauhan in Criminal Application No.660 of 2018 is personally present in Court. He is identified by the learned counsel Shri Mukesh Badsawal. He is also identified

by his Aadhar Card bearing No.426187539489. When put in the box and queried, he states that in view of the settlement arrived at between the parties, he and his wife and son does not desire to proceed with FIR in question. He states that the affidavit dated 02/07/2018 tendered today has been filed voluntarily by him and the other Respondents.

11 The Respondent No.3 – Atiya Zabeen Hanif Chauhan in Criminal Application No.660 of 2018 is personally present in Court. She is identified by the learned counsel Shri Mukesh Badsawal. She is also identified by her Aadhar Card bearing No.239305028531. She states that in view of the settlement between the parties she is not desirous of proceeding with the FIR in question.

12 In view of the statements recorded of the Respondent Nos. 2 and 3, it is not necessary to record the statement of the Respondent No.3 – Amir Ahmed Alia Ahmed Khan, though he is personally present in Court.

13 Having regard to the affidavits filed by the first informants in the two sets of FIRs which have been registered with the Nagpada Police Station, the statements made by the Respondent No.2 in so far as CR No.190 of 2018 is concerned, and the statements made by the Respondent Nos.2 and 3 in so far as CR No.189 of 2018 is concerned, the same indicate that the parties have amicably resolved their dispute as a result of which the said Respondents do

not desire to proceed with the FIRs in question which they have respectively lodged with Nagpada Police Station.

14 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, no useful purpose would be served in keeping the FIRs pending when the parties have settled their disputes and are not desirous of proceeding against each other.

15 The above Criminal Application Nos. 659 of 2018 and 660 of 2018 are required to be allowed and are accordingly allowed and made absolute in terms of prayer clause (b). The above Criminal Applications are accordingly disposed of. The Applicants in each of the above Criminal Applications to deposit costs of Rs.25,000/- making a total Rs.50,000/- with the Tata Memorial Hospital, Parel, Mumbai, within six weeks from date. Receipts to be obtained and filed in the Registry of this Court.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]