

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 735 OF 2018**

Sayyed Kafil Ahmed s/o

Sallan Ali & Ors.

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

**WITH
CRIMINAL APPLICATION NO. 737 OF 2018**

Naimulla S/o Amanulla Shaikh & Ors.

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

Ms. Sayyed Tabassum Achhan for the Applicants in APL/735/2018 and
for the Respondent No.2 in APL/737/2018

Ms. Manisha Bhagvan Gawde for the Applicants in APL/737/2018 and
for the Respondent No.2 in APL/735/2018

Mrs. S. D. Shinde, A.P.P for the Respondent-State in APL/735/2018

Mr. Deepak Thakare, P.P a/w Mrs. P. P. Shinde, A.P.P for the
Respondent-State in APL/737/2018

PSI Mr. Rajput Ujwal from Goregaon Police Station is present

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
THURSDAY, 19th JULY, 2018**

P.C. :

1 The above Criminal Applications have been filed for quashing of the FIR being FIR No. 346 of 2018 registered with the Goregaon Police Station, Mumbai, on 12th June 2018 for the offences punishable under Sections 452, 324, 323, 341, 427, 336, 504, 143, 147 and 149 of the Indian Penal Code, 1860 (subject matter of APL/735/2018) and FIR No. 347 of 2018 registered with the same Police Station on 12th June 2018 for the offences punishable under Sections 143, 147, 149, 509, 354, 324, 506(2) and 427 of the Indian Penal Code (subject matter of APL/737/2018). The said FIRs are, therefore, in the nature of cross-complaints of the parties, which have arisen out of the incident dated 11th June 2018 between the two sets of Applicants in the above Applications.

2 The first informants in both the Applications i.e. the Respondent No. 2 in Criminal Application No. 735 of 2018-Mrs. Sadaf Abdul Wahab Khan and the first informant in Criminal Application No. 737 of 2018 i.e. Respondent No. 2-Sayyed Shabana Vakil Ahmed

have filed their affidavits. The said affidavits have been affirmed before Mr. A. P. Maroo, Notary, Government of India on 17th July 2018. Mr. Maroo has his office Opposite Petrol Pump, S. V. Road, Goregaon (West), Mumbai – 400 062. The said affidavits bear the notarial registration No. 235 of 2018 and 236 of 2018 respectively. The said affidavits are *pari materia* insofar as paragraph 7 of the said affidavits is concerned. The said paragraph 7 is therefore reproduced hereinunder for the sake of ready reference:

Criminal Application No. 735/2018

“7. I say that I have given my free consent for quashing of above referred criminal proceeding with my conscious mind, free will and without any sort of pressure, coercion, fraud applied on me by any person(s). Further more I am also aware about the effect of the present affidavit-in-reply more specifically the FIR bearing No. 346 of 2018 pending in the file of Goregaon Police Station; District Mumbai against present applicants as well as such other unknown accused may get quashed, for which I am recording my free consent.”

Criminal Application No. 737/2018

“7. I say that I have given my free consent for quashing of above referred criminal proceeding with my conscious mind, free will and without any sort of

pressure, coercion, fraud applied on me by any person(s). Further more I am also aware about the effect of the present affidavit-in-reply more specifically the FIR bearing No. 347 of 2018 pending in the file of Goregaon Police Station; District Mumbai against present applicants as well as such other unknown accused may get quashed, for which I am recording my free consent.”

3 The first informant -Sadaf Abdul Wahab Khan is not in a position to remain present in Court as she has delivered a baby only about ten days back, however, her parents who are the Applicants in the other Application i.e. Criminal Application No. 737 of 2018 are present in Court. Her father Naimulla Amanulla Shaikh is personally present in Court. He is identified by learned counsel Ms. Manisha Gawade. He is also identified by his Aadhar Card bearing No. 838154329909. When put in the box and queried, he accepts the fact that the affidavit has been filed by his daughter Sadaf. He further states that in view of the settlement between the parties, the first informant does not desire to proceed with the FIR in question. The mother of Sadaf, Zaibunnisa Naimulla Shaikh is also personally present in Court. She reiterates what has been stated by her husband Naimulla.

4 The Applicant No.1-Sayyed Kafil Ahmed is personally present in Court. He is identified by the learned counsel Ms. Tabassum Sayyed. He is also identified by his Aadhar Card bearing No.321189780494. When put in the box and queried he accepts the factum of settlement arrived at between the parties, as a result of which, the Respondent No. 2 does not desire to proceed with the case in question. In view of the statement recorded of the Applicant No. 1, it is not necessary to record the statements of the other Applicants.

5 The first informant insofar as FIR No. 347 of 2018 is concerned i.e. Sayyed Shabana Vakil Ahmed is also personally present in Court. She is identified by the learned counsel Ms. Manisha Gawade. She is also identified by her Aadhar Card bearing No. 915166131982. When put in the box and queried, she accepts the fact that the affidavit tendered today by the learned counsel is hers. She has been read over and explained the contents of the said affidavit and that she has understood the said contents. She further states that she has filed the said affidavit in view of the settlement between the

parties. She lastly states that she has filed the affidavit of her own free will and volition.

6 The statement of the Applicant No. 1 Naimulla has already been recorded as in the capacity of being the father of the first informant in the companion FIR. Hence, it is not necessary to record his statement once again.

7 In the light of the affidavits filed by the first informants of the two FIRs in question as also the statements made by the first informant and the father of the first informant Sadaf, when put in the box and queried, the same indicate that the parties have resolved their dispute, as a result of which, both the first informants do not desire to proceed with the FIR in question.

8 It appears that the parties have been residing together as they are neighbours. Hence, it would be just and proper in the interest of cordial relationship between the parties that this Court exercises powers under Section 482 of the Code of Criminal Procedure. In the

said context, a useful reference could be made to the judgments of the Apex Court in the matters of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which would assist in quashing of the respective FIRs. The above Criminal Applications are, therefore, required to be allowed and both the Applications are accordingly allowed in terms of prayer clause (a).

9 The above Criminal Applications are accordingly disposed of.

10 In the facts and circumstances of the case, the Applicants in both the Applications to deposit cost of Rs. 10,000/- totalling Rs. 20,000/- with the Mumbai Police Welfare Fund in the Office of the Commissioner of Police, Mumbai, within six weeks from date. Receipts to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065