

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 793 OF 2018**

Aparna Harihar Chowdhary & ors.

...Applicants

vs.

State of Maharashtra & anr.

...Respondents

Mr. Abhishek Yende for Applicants.

Mrs. Sangeeta Shinde, APP for Respondent No.1/State.

Mr. T.H. Usman for Respondent No.2.

**CORAM : A.A. SAYED &
M.S. KARNIK, JJ.**

DATE : JULY 23, 2018

P.C.:

By order dated 20th June, 2018 in Criminal Application No. 520 of 2018 this Court quashed the Criminal Case No. 208/PW/2018 arising out of FIR/C.R.No. I-44 of 2018 registered with Gamdevi Police Station, Girgaon, Mumbai, for the offences punishable under Sections 452, 454, 448, 341 read with Section 34, 120B of the Indian Penal Code to the extent of Applicants therein viz. Atul Korgaonkar and Reena Shirish Mhatre. The present Criminal Application arises from the same FIR/C.R.No. I-44 of 2018. The present four Applicants were not named in the FIR, however, chargesheet has been filed against them in the Criminal Case No.208/PW/2018 arising from FIR/C.R.No. I-44 of 2018.

2. *Heard learned Counsel for the Applicants, learned Counsel for Respondent No.2 and learned APP for Respondent No.1/State.*

3. *Learned Counsel for Respondent No.2 who is the original Complainant has tendered an Affidavit of the Respondent No.2 giving his consent to quash the proceedings bearing No. 208/PW/2018 pending against the present Applicants before the Additional Chief Metropolitan Magistrate, Girgaon, Mumbai, arising out of FIR/C.R.No. I-44 of 2018 registered with Gamdevi Police Station, Girgaon, Mumbai. The Affidavit specifically states that the dispute in respect of the garage No.2 is amicably settled between the parties and was purely based on misunderstandings. The Affidavit states that no faction of the society has been affected or aggrieved from the alleged offences which form the subject matter of the Complaint.*

4. *We record the presence of the Respondent No. 2 - Complainant in the Court. The Applicant Nos. 1 and 2 are also present in the Court. It is submitted that Applicant No.1 is 81 years old and is not in good health and Applicant No.4's son is admitted to the hospital and hence they are not present. In the order dated 20th June, 2018 in Criminal Application No. 520 of 2018 we had relied upon the case of **Gian Singh Vs. State of Punjab & Anr. (2012) 10 SCC 303** and considering the facts and circumstances of the case, we had allowed the Application in terms of prayer Clause (a) subject to payment of costs of Rs.5,000/- each by the Applicants to be deposited with TATA Memorial Cancer Hospital, Parel, Mumbai and NAAM Foundation.*

5. *For the reasons stated in the said judgment and order dated 20th June, 2018 in Criminal Application No. 520 of 2018, we are inclined to allow the present Application also. Hence, the following order :*

ORDER

i. *Criminal Application No. 793 of 2018 is allowed in terms of prayer Clause (a) which reads as follows :*

“a) This Hon'ble Court be pleased to quash and set aside the FIR bearing CR No.44 of 2018 registered with Gamdevi Police Station, Mumbai and criminal proceedings bearing Charge Sheet No. 208/PW/2018 filed by Gamdevi Police Station, Mumbai, with Additional Metropolitan Magistrate Court, Girgaum, against the present applicants.”

subject to payment of costs of Rs.5000/- each, in all aggregating to Rs.20,000/-, by the Applicants to be deposited with TATA Memorial Cancer Hospital, Parel, Mumbai.

6. *The Criminal Application is disposed of in above terms.*

7. *List on 30th July, 2018 for reporting compliance.*

8. *We record the statement of learned Counsel for Respondent No.2 that he will file his Vakalatnama within two weeks.*

(M.S. KARNIK, J.)

(A.A. SAYED, J.)