

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 53/2018

(REKHA SANTOSH SHUKLA & ANOTHER VERSUS STATE OF MAHARASHTRA, THR. MANKAPUR
 POLICE STATION, NAGPUR)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.D. Kalra, counsel for the applicants.
 Shri A.S. Fulzele, A.P.P. for the non-applicant.

CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.
DATE : FEBRUARY 12, 2018.

By this criminal application, the applicants have sought the quashing and setting aside of the first information report and the charge-sheet filed against the applicant no.2 for the offences punishable under Sections 452, 294, 506(B) of the Penal Code read with Section 85(1) of the Maharashtra Prohibition Act as also Regular Criminal Case No.1124 of 2016.

The present application is jointly filed by the complainant-applicant no.1 and the accused-applicant no.2 for the quashing and setting aside of the first information report registered against the applicant no.2 for the aforesaid offences. In the complaint lodged by the applicant no.1, she had alleged that the applicant no.2 had created ruckus after trespassing in her house and had abused and threatened her of dire consequences. It is stated that the applicant no.1 and the applicant no.2 are the neighbours since past several years and their houses are adjacent to each other in the same locality. It is stated that it is now realized by the applicant nos.1 and 2 that they had misunderstood each other and on a wrongful assumption of facts, the applicant no.1 had

lodged the complaint against the applicant no.2 on 30.12.2015 on the basis of which the first information report was registered against him. It is stated that the applicants have decided to settle the matter amicably as they reside in the same locality and wish to live peacefully. It is stated that in the circumstances of the case, with a view to bury the differences between the applicants, the first information report and the charge-sheet filed against the applicant no.2 for the offences punishable under Sections 452, 294, 506(B) of the Penal Code read with Section 85(1) of the Maharashtra Prohibition Act are liable to be quashed and set aside.

The applicant no.1 and the applicant no.2 are personally present in the Court, today. The counsel for the applicants has identified them. The Investigating Officer who is also present in the Court today has identified the applicants. It is stated by the applicant no.1 that she does not wish to prosecute the matter against the applicant no.2 as they are adjoining neighbours and they wish to live peacefully. It is stated by the applicant no.1 that there was some misunderstanding between the applicant no.1 and the applicant no.2 and therefore, she had lodged the complaint against him.

In the circumstances of the case, with a view to prevent the abuse of the process of Court it would be necessary to quash and set aside the first information report and the charge-sheet filed against the applicant no.2 for the offences punishable under Sections 452, 294, 506(B) of the Penal Code read with Section 85(1) of the Maharashtra Prohibition Act as also Regular Criminal Case No.1124 of 2016. It appears that the applicant no.1 and the applicant no.2 are the adjoining neighbours and it is stated by the applicant no.1 that due to some misunderstanding, she had lodged the complaint against the applicant no.2. If the first information

report is not quashed and set aside after the applicants had patched up their dispute, the animosity between them would continue. There is hardly any likelihood of the prosecution resulting in the conviction of the applicant no.2 as the applicant no.1 is not ready to prosecute the matter against the applicant no.2.

Hence, with a view to secure the ends of justice and to prevent the abuse of the process of Court, by relying on the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in **(2014) 6 SCC 466**, the first information report, the charge-sheet filed against the applicant no.2 for the offences punishable under Sections 452, 294, 506(B) of the Penal Code read with Section 85(1) of the Maharashtra Prohibition Act and Regular Criminal Case No.1124 of 2016 are liable to be quashed and set aside.

Hence, the criminal application is allowed. The first information report, the charge-sheet filed against the applicant no.2 for the offences punishable under Sections 452, 294, 506(B) of the Penal Code read with Section 85(1) of the Maharashtra Prohibition Act and Regular Criminal Case No.1124 of 2016 are hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE