

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APL] NO.410 OF 2018

[Annu Ab. Anwar Ab. Samad Rangari and others .vs. State of Maharashtra and one]

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

Court's or Judge's orders

Shri PV. Navlani, counsel for the applicants,
Shri V.P. Maldhure, APP for non-applicant no.1-State,
Shri Kunal Nalamwar, counsel for non-applicant no.2.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 24, 2018.

Heard.

By this criminal application the applicants seek the quashing and the setting aside of the first information report registered against the applicants for the offence punishable under section 394 read with 34 of the Penal Code.

The applicant nos.1, 2 and 3 were travelling in a car. When the car gave a cut to the two wheeler which the non-applicant no.2 was driving, as a result of which, the non-applicant no.2 fell down from his motorcycle. There was an altercation between the parties and the non-applicant no.2, lodged a report against the applicants that they had stopped his motorcycle on the road and after assaulting him had removed a sum of Rs.5,000/- from his pocket. On the basis of the complaint lodged by the non-applicant no.2, the first information report is registered against the applicants for the offence punishable under section 394 read with 34 of the Penal Code.

It is stated on behalf of the applicants and the non-applicant no.2 on the basis of the affidavit-in-reply filed before the Judicial Magistrate, First Class that actually on the said fateful day there was an accident in which the car of the applicants and the motorcycle of the non-applicant no.2 was

involved. It is stated that since the non-applicant no.2 had a sum of Rs.5,000/- with him on the said date and the said amount was not to be found, he had lodged a report against the applicants as he had suffered financial loss as well as bodily injury. It is stated that on the next day the amount of Rs.5,000/- was found by the non-applicant no.2 and therefore he immediately wished to withdraw the complaint lodged against the applicants. It is stated on behalf of the applicants and the non-applicant no.2 that the complaint is lodged by the non-applicant no.2 due to misunderstanding. It is stated that the allegations made by the non-applicant no.2 would not be correct and the fall of the non-applicant no.2 was due to the accident. The applicants and the non-applicant no.2 are personally present in the court today. The non-applicant no.2 states that he does not wish to pursue the matter against the applicants on the basis of the complaint lodged by him in the Police Station. It is stated that he has recovered his amount of Rs.5,000/-. It is stated that the dispute between the applicants and the non-applicant no.2 is amicably settled. It is stated that since the vehicles of the applicants and the non-applicant no.2 were involved in the accident on the said day, the report was lodged by the non-applicant no.2 in a fit of rage.

On hearing the applicants and the non-applicant no.2, it appears that it would be necessary to quash and set aside the first information report registered against the applicants for the offence punishable under section 394 r/w 34 of the Penal Code. The parties have amicably settled the dispute. We believe the case of the applicants and the non-applicant no.2 that the non-applicant no.2 had filed the report as his motorcycle was involved in an accident and according to him the accident was caused due to the car that was driven by one of the applicants. Since the non-applicant no.2 does not wish to prosecute the matter against the applicants, it is unlikely that the prosecution would result in

the conviction of the applicants. Hence, with a view to prevent the abuse of the process of the court and to secure the ends of justice, it would be necessary to quash and set aside the first information report registered against the applicants for the offence punishable under section 394 r/w 34 of the Penal Code and the proceedings arising therefrom.

Hence, for the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicants for the offence punishable under section 394 r/w 34 of the Penal Code and the proceedings arising therefrom are hereby quashed and set aside, subject to the payment of Rs.8000/-, that should be equally borne by the applicant nos.1 to 3 and the non-applicant no.2 to the High Court Legal Services Sub-Committee, Nagpur within one week. Order accordingly.

JUDGE

JUDGE

Gulande