

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.492 OF 2019

1. Pravin s/o Narsingrao Jethewad,
Age 33 years, Occu. Business,
R/o Near Mayur Talkies, Nanded,
District Nanded.
2. Yogesh s/o Narsingrao Jethewad,
Age 31 years, Occu. Business,
R/o Near Mayur Talkies, Nanded,
District Nanded.
3. Narsingrao s/o Dattatraya Jethewad,
Age 60 years, Occu. Business,
R/o Near Mayur Talkies, Nanded,
District Nanded.

...APPLICANTS

VERSUS

1. The State of Maharashtra
through Vimantal Police Station,
Nanded, District Nanded
(Copy to be served on
Public Prosecutor, Hgih Court of
Bombay, Bench at Aurangabad)
2. Maya Kishandas Rijwani,
Age major, Occu. Household,
R/o Opposite Collector, Office,
Nanded

...RESPONDENTS

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Shri S.S. Gangakhedkar, Advocate for applicants
Shri R.V. Dasalkar, A.P.P. for respondent No.1
Shri R.R. Karpe, Advocate for respondent No.2
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WITH

CRIMINAL APPLICATION NO.493 OF 2019

1. Maya w/o Kishandas Rijwani,
Age 62 years, Occu. Business,
R/o Opposite Collector, Office,
Nanded
2. Ashok s/o Kishandas Rijwani,
Age 42 years, Occu.
R/o as above.

...APPLICANTS

VERSUS

1. The State of Maharashtra
through Vimantal Police Station,
Nanded, District Nanded
(Copy to be served on
Public Prosecutor, Hgih Court of
Bombay, Bench at Aurangabad)
2. Pravin s/o Narsingrao Jethewad,
Age 33 years, Occu. Business,
R/o Near Mayur Talkies, Nanded,
District Nanded.

...RESPONDENTS

.....
Shri R.R. Karpe, Advocate for applicants
Shri R.V. Dasalkar, A.P.P. for respondent No.1
Shri S.S. Gangakhedkar, Advocate for respondent No.2
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**CORAM: S.S. SHINDE AND
R.G. AVACHAT, JJ.**

DATED : 25th February, 2019

ORAL JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. Rule made returnable forthwith and taken up
for final hearing with the consent of learned counsel appearing
for the parties.

2. Criminal Application No.492/2019 is filed with the following substantive prayer :

(B) By an order of this Hon'ble Court, kindly quash and set aside the F.I.R. bearing C.R. No.170/2018 dated 8.7.2018 for the offence punishable under Sections 354-A, 294, 109, 504, 506 read with 34 of I.P.C., as against applicants.

3. Criminal Application No.493/2019 is filed with the following substantive prayer :

(B) By an order of this Hon'ble Court, kindly quash and set aside the F.I.R. bearing C.R. No.173/2018 lodged on 9.7.2018, registered at Vimantal Police Station, Nanded for the offence punishable under Sections 452, 294, 506 34 of Indian Penal Code and Section 3(2) of SC and ST (Prevention of Atrocities) Act, as against applicants.

4. Pursuant to the notices issued to the respondents, respective respondent No.2 in both the applications have filed affidavits. In both the affidavits, it is stated that, the applicants in respective applications and respondent No.2 have amicably settled the dispute and decided to withdraw the cases against each other so as to maintain cordial relations in future. It is

stated that, all of them have decided to withdraw the cases filed against each other.

5. In Criminal Application No.492/2019, F.I.R. bearing C.R. No.170/2018 is arising out of the incident dated 8.7.2018 and the Sections which are invoked are 354-A, 294, 109, 504, 506 read with 34 of the Indian Penal Code. In Criminal Application No.493/2019, C.R. No.173/2018 lodged for the offences punishable under Sections 452, 294, 506 34 of the Indian Penal Code and Section 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The allegations in both the First Information Reports that the incident which is alleged in both the First Information Reports is one and the same. It is true that, in C.R. No.173/2018, one of the alleged offences is under Section 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. However, it appears that, the entire incident has taken place in the house of informant in C.R. No.173/2018. Therefore, the alleged offence has not taken place in the public view. As already observed, there was some civil dispute between the parties which gave rise for the aforesaid incident and consequentially registering two First Information Reports.

6. Since the parties have amicably settled the civil as well as criminal disputes and to that effect the informants have

specifically stated before this Court that they have no objection for quashing the First Information Reports. In that view of the matter, and since the parties have amicably settled the dispute and the informants may not support the allegations in the First Information Reports, the chances of conviction of the accused would be bleak. The further continuation of investigation/proceedings on the basis of aforesaid crimes would be an exercise in futility and abuse of the process of law/ Court. Therefore, keeping in view the exposition of law by the Supreme Court in the case of **Gian Singh Vs. State of Punjab & anr.** reported in **[(2012) 10 SCC 303]**, both the applications deserve to be allowed.

7. In the result, both the criminal applications are allowed in terms of prayer clause (B). Rule made absolute in above terms. Both the applications are disposed of.

8. Parties to act upon authenticated copy of this order.

R.G. AVACHAT
JUDGE

S.S. SHINDE
JUDGE

fmp/