

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2585 OF 2018

- 1) Kamal s/o Mohammad Shaikh,
Age-34 years, Occu:Business,
R/o-Takali Miya, Tq-Rahuri,
Dist-Ahmednagar,
- 2) Atik s/o Latif Shaikh,
Age-34 years, Occu:Driver,
R/o-Khatik Galli, Rahuri,
Tq-Rahuri, Dist-Ahmednagar,
- 3) Nisar s/o Lalabhai Shaikh,
Age-40 years, Occu:Labour,
R/o-Takali Miya, Tq-Rahuri,
Dist-Ahmednagar,
- 4) Samir s/o Mohammad Shaikh,
Age-37 years, Occu:Business,
R/o-Takali Miya, Tq-Rahuri,
Dist-Ahmednagar,
- 5) Rafik s/o Dagubhai Shaikh,
Age-31 years, Occu:Labour,
R/o-Guha, Tq-Rahuri,
Dist-Ahmednagar,
- 6) Tausif Rafiq Shaikh,
Age-30 years, Occu:Labour,
R/o-Khatik Galli, Rahuri,
Tq-Rahuri, Dist-Ahmednagar

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through the Police Station
Officer, Rahuri Police Station,
Rahuri, Dist-Ahmednagar,
- 2) Abdul s/o Daulat Shaikh,
Age-40 years, Occu:Business,
R/o-Rahuri College Rd.,
Rahuri, Tq-Rahuri,
Dist-Ahmednagar.

...RESPONDENTS

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Mr.J.I. Shaikh Advocate for Applicants.
Mr.S.B. Narwade, A.P.P. for Respondent No.1.
Mr.T.J. Momin Advocate for Respondent No.2.

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WITH**CRIMINAL APPLICATION NO.3236 OF 2018**

- 1) Abdul s/o Daulat Shaikh,
Age-42 years, Occu:Business,
R/o-Near Rahuri College, Rahuri,
Tq-Rahuri, Dist-Ahmednagar.
- 2) Yasin s/o Abdul Shaikh,
Age-21 years, Occu:Labour,
R/o-Near Rahuri College, Rahuri,
Tq-Rahuri, Dist-Ahmednagar,
- 3) Imran s/o Abdul Shaikh,
Age-19 years, Occu:Labour,
R/o-Near Rahuri College, Rahuri,
Tq-Rahuri, Dist-Ahmednagar,

- 4) Husain s/o Daulat Shaikh,
Age-50 years, Occu:Business,
R/o-Near Rahuri College, Rahuri,
Tq-Rahuri, Dist-Ahmednagar,
- 5) Subhani s/o Husain Shaikh,
Age-22 years, Occu:Labour,
R/o-Near Rahuri College, Rahuri,
Tq-Rahuri, Dist-Ahmednagar,
- 6) Aslam s/o Husain Shaikh,
Age-24 years, Occu:Labour,
R/o-Near Rahuri College, Rahuri,
Tq-Rahuri, Dist-Ahmednagar

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through the Police Station
Officer, Rahuri Police Station,
Rahuri, Dist-Ahmednagar,
- 2) Salim s/o Karim Shaikh,
Age-27 years, Occu:Business,
R/o-Takali Miya, Rahuri,
Tq-Rahuri, Dist-Ahmednagar.

...RESPONDENTS

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Mr.T.J. Momin Advocate for Applicants.
Mr.R.V. Dasalkar, A.P.P. for Respondent No.1.
Mr.J.I. Shaikh Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
R.G. AVACHAT, JJ.**

DATE OF RESERVING JUDGMENT :30TH JANUARY, 2019

DATE OF PRONOUNCING JUDGMENT: 5TH FEBRUARY, 2019

JUDGMENT [PER S.S. SHINDE, J.]:

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. Pursuant to the notices issued to the Respondents, the Applicants and Respondent No.2 in respective Applications have amicably settled the dispute. Respondent No.2, in respective Applications, have filed the affidavits. There are five injured witnesses in the alleged incident. The injured witnesses have also filed the affidavits.

3. In Criminal Application No.2585 of 2018, Respondent No.2 – Abdul Daulat Shaikh, and two

injured witnesses namely, Aslam s/o Husain Shaikh, Yasin s/o Abdul Shaikh have filed the affidavits. In the said affidavits, it is stated that the Applicants are their close relatives and all of them are in same business of chicken at Rahuri. It is further stated in the affidavits considering the relations between the parties, they have decided to settle the dispute amicably so as to maintain cordial relations in future. There are other details stated in the affidavits. It is also stated that the parties have settled their dispute before their elderly relatives and respected persons of their community. It is stated that Respondent No.2 and injured witnesses, Aslam s/o Husain Shaikh and Yasin s/o Abdul Shaikh have no objection to quash the First Information Report.

4. In Criminal Application No.3236 of 2018, the affidavits are filed by Respondent No.2 – Salim s/o Karim Shaikh and injured witnesses,

namely, Tausif s/o Rafiq Shaikh and Kamal Mohammad Shaikh. It is stated in the affidavits that all the Applicants and Respondent No.2 are in the same business of chicken at Rahuri and the injuries sustained by the injured witnesses are simple in nature and caused in the scuffle on trifle issue. It is submitted that there was quarrel between the Applicants in both the Applications and in anger they made cross complaints against each other. It is stated in the affidavits that in order to maintain cordial relations and considering the relations between the parties, and to maintain good relations in future, they have decided to amicably settle the dispute. It is further stated in the affidavits that, Respondent No.2 and the said injured witnesses have no objection to quash the First Information Report.

5. On 30th January, 2019, the Applicants and the informants, as well as the injured witnesses

were present before this Court. This Court has recorded the satisfaction that, it is voluntary act of the respective informants and injured witnesses, and also the Applicants to arrive at amicable settlement.

6. We have carefully perused the contents of both the First Information Reports. It appears that scuffle took place on the trifle issue of alleged non-payment of Rs.20,000/-. It is true that some injuries caused to the injured from both the sides, but except one injury which is grievous in nature, all other injuries caused to the injured witnesses are simple in nature. As observed earlier, the scuffle took place on trifle issue. Since Respondent No.2 (informants) in both the Applications and the injured witnesses have amicably settled the dispute and filed affidavits to that effect, they are not going to support the prosecution case, and therefore, the chances of

conviction would be bleak.

7. The Supreme Court in the case of Gian Singh vs. State of Punjab and another¹ has held that, the High Court can exercise jurisdiction under Section 482 of the Criminal Procedure Code by accepting the settlement to secure ends of justice and to prevent abuse of process of law.

8. In view of the discussion made in foregoing paragraphs, keeping in view the exposition of law by the Supreme Court in the case of Gian Singh, cited supra, in order to prevent the abuse of process of Court, it would be appropriate to accede to the joint prayer of the Applicants and Respondent No.2 and also the injured witnesses, to quash both the First Information Reports.

¹ 2012 (10) SCC Page 303

9. Accordingly, the First Information Report No. I-435 of 2018 registered with Rahuri Police Station on 3rd July, 2018 for the offence punishable under Section 143, 147, 148, 149, 324, 327, 427, 323, 337, 504, 506 read with 34 of the Indian Penal Code and Section 4, 25 of the Arms Act and Section 37(1)(3) of the Bombay Police Act; and, the First Information Report No.I-447 of 2018 registered with Rahuri Police Station on 8th July, 2018, for the offence punishable under Section 143, 147, 324, 427, 323, 337, 504, 506 of the Indian Penal code and Section 4, 25 of the Arms Act, are quashed and set aside.

10. Rule made absolute in above terms. Both the Criminal Applications stand disposed of, accordingly.

[R.G. AVACHAT, J.]

[S.S. SHINDE, J.]