

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.28 OF 2019

Sameer @ Pappi Adulrafik Shaikh
and Ors.

...Petitioners

Versus

The State of Maharashtra and Anr.

...Respondents

.....

Mr. Prashant D. Patil for the Petitioners.

Mr. Faizkhan A. Inamdar for the Respondent No.2.

Smt. A.S. Pai, APP for the Respondent No.1-State.

CORAM : B.P. DHARMADHIKARI AND

SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 14th FEBRUARY, 2019.

P.C.:-

On 25.1.2019 after hearing the respective counsel and request for quashing of FIR made jointly this Court sought information on antecedents of Petitioners from Respondent No.1. The learned APP has today upon instructions pointed out that more than four criminal cases pending against the Petitioner No.1. The Petitioner No.3 was co-accused with the Petitioner No.1 in one matter and in that matter both of them have been acquitted. There is no criminal record of other Petitioners i.e. Petitioner Nos.2, 4, 5 and 6.

2. Complainant-Respondent No.2 is present with his Advocate.

His Advocate. His Advocate informs that parties are residing as neighbours since last several years and are childhood friends. Because of dispute between children the tempers flared and the incident has occurred. He is therefore, requesting the Court to quash the FIR.

3. The learned APP has invited our attention to the mode and manner in which attack was made and weapons used.

4. The alleged offences are under Sections 452, 324, 337, 323, 504, 506, 143, 136, 147 and 149 of IPC and Section 135 of Bombay Police Act.

5. During assault sticks, iron rods, glass bottles and stones were used and brother of complainant was assaulted on head with rod as also with chopper. The injured brother of complainant namely Salman Pathan is also present. He also has no objection and states that name of Khalil Mirza was not disclosed by them to police.

6. Though learned APP is opposing, we find that in this situation nothing fruitful will come out of the prosecution. Not only this it appears from narration of complainant that relations were earlier cordial and now again relationship is cordial and normal.

7. However, we find that in the process valuable time of police and court machinery is lost.

8. We therefore direct Petitioners to pay amount of Rs.15,000/- each to police welfare fund within four weeks from today. If the amount is accordingly paid, relief in terms of prayer clause (b) shall become absolute.

9. The Petitioners shall also give undertaking to this Court with its copy to local police station that they will in future maintain law and order and shall not take recourse to such behaviour. Undertaking be filed within four weeks.

(SMT. ANUJA PRABHUDESSAI, J.) (B.P. DHARMADHIKARI, J.)