

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3858 OF 2019

Haji Kaleem @ Kallimulla Sakharalam
@ Sarvar Siddiqui and Ors. .. Petitioners

Vs.

The State of Maharashtra & Anr. .. Respondents

...

Mr. P.N. Mishra for the petitioners.

Mr. Deepak Thakare, P.P with Mr.S.R. Shinde, APP for the State.

Ms. Sharon Patole for respondent no.2.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 06th AUGUST, 2019

P.C:-

1 Heard learned counsel for the petitioners, learned counsel for respondent no.2 and learned APP for the State.

2 This petition is filed for quashing and setting aside the FIR No.68 of 2017 registered at the instance of respondent No.2 with Kurar Police Station, Mumbai for offences punishable under Sections 143, 144, 147, 148, 149, 323, 324, 504 and 506 of the IPC, which was subsequently numbered as C.C.

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No.1178/PW/17 pending before the Metropolitan Magistrate's 67th Court at Borivali, Mumbai.

3 Pending trial, parties have settled their dispute amicably and they have no objection for quashing the subject FIR and the subsequent case, by consent. Respondent no.2 has accordingly filed an affidavit dated 24nd July 2019. In paragraph no.4, he has given his no objection to quash the subject FIR and the subsequent case being C.C.No.1178/PW/17. Respondent no.2 is personally present in the Court. He has stated that he has given his no objection out of free will and without there being any pressure or coercion.

4 The Hon'ble Apex Court in the case of ***Narinder Singh vs. State of Punjab***¹ has observed thus :-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceedings having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding

1 [2014 AIRSCW 2065]

factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute between them and buried the hatchet, we are of the opinion that the FIR and the subsequent case being C.C. No.1178/PW/17 pending before Metropolitan Magistrate's 67th Court at Borivali, Mumbai is liable to be quashed in exercise of our inherent powers to secure the ends of justice.

5 In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh** (supra), we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

6 Accordingly, writ petition is allowed and the subject FIR No.68 of 2017 and subsequent case being C.C. No.1178/PW/17 pending before the Metropolitan Magistrate's 67th Court at Borivali, Mumbai, are quashed and set aside subject to the following :-

(i) Each of the petitioners shall pay costs of Rs.10,000/- (aggregating to Rs.50,000/-) to “***Sunni Hanifi Nurani Masjit Trust***”. *For the quashment to take effect, the petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, writ petition shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as non-est.*

Subject to the above, writ petition stands disposed of.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)