

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

52 CRIMINAL APPLICATION NO.355 OF 2022

SANTOSH PRALHAD GAWALE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants: Mr. Patil Swapnil S.

APP for Respondent No.1: Mr. S. J. Salgare

Advocate for Respondent No.2:

Mr. Shaikh Mohd. Naseer A.

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CORAM: SARANG V. KOTWAL &

BHARAT P. DESHPANDE, JJ.

DATE: 27th JUNE, 2022

PER COURT:

1. This is an application for quashing and setting aside the charge-sheet No.05/2021 dated 10.03.2021 for the offences punishable under Section 66(c) of the Information Technology Act, 2000 and under Section 506 of IPC and consequential proceedings bearing R.C.C. No.314/2021 pending before Chief Judicial Magistrate, Jalgaon.

2. Heard learned Counsel for respective parties.

3. The F.I.R. was lodged vide C.R.No.2/2020 at Cyber Police Station, Jalgaon under those

sections on 09.04.2020 by Respondent No.2. He stated in his F.I.R. that on 07.04.2020 one Krish Singhwani came to his house and told Respondent No.2's son that he had received some threatening messages; purportedly sent by Respondent No.2's son through a social networking site. Respondent No.2's son had not created any such account on that particular social networking site. The informant – Respondent No.2 made further enquiry and realized that somebody has used his son Anuj Chaudhari's name and had created fake account and through that, some threatening messages were sent. On this basis the F.I.R. was lodged, investigation was carried out and it was revealed during investigation that the messages were sent through the sim cards belonging to both the applicants and, therefore, the charge-sheet is filed against both of them.

4. Learned Counsel for the applicants submitted that though the sim cards were in their names they were not used by either of the applicants and they were used by another person in

the applicant no.1's family. However, the charge-sheet does not reveal this fact. He submitted that applicant No.2 was in Bhopal at the relevant time and his sim card was used by the offender. The applicant No.2 has got admission in IIM Delhi. His career is in jeopardy because of pendency of this proceeding. He submitted that the first informant along with the applicants had made an application before the Trial Court for compounding of the offences under Section 77-A of the Information Technology Act, 2000. However, it was not entertained because the said Section provides that the compounding would not be permissible if it was committed against a child below the age of 18 years. Learned Counsel for the applicants submits that at the time of commission of offence Anuj Chaudhari – informant's son was below 18 years of age and, therefore, compounding was not possible and, therefore, the applicants have approached this Court for quashing of the proceedings on the ground of settlement.

5. Learned Counsel for Respondent No.2 invited our attention to the affidavit filed on behalf of Respondent No.2. In that affidavit it is mentioned that they had good family and friendly relations with each other and to maintain the same they had arrived at amicable settlement between the parties. The informant did not want to proceed with the complaint in the subject matter i.e. R.C.C. No.314/2021 pending before the Chief Judicial Magistrate, Jalgaon.

6. Both the learned Counsel submitted that as on today Anuj Chaudhari has become major as he is more than 18 years of age today.

7. We have considered the submissions canvassed by the learned Counsel for respective parties.

8. In view of the settlement between the parties and taking into account the fact that the applicant no.2 has a bright future ahead of him; continuation of this proceedings in the light of

settlement between the parties would not serve any purpose. Therefore, we are inclined to allow this application. It is made clear that the person named in the F.I.R. Krish Singhwani has not lodged any F.I.R. If he has any grievance, he is free to adopt legal process. However, as far as the present F.I.R. is concerned, the informant has settled the matter with the applicants. His son also has not raised any objection in this proceedings for settlement. Therefore, the application can be allowed. Hence, the following order-

ORDER

[I] The application is allowed in terms of prayer clause "B".

[II] The R.C.C. No.314/2021 pending before the Chief Judicial Magistrate, Jalgaon is quashed and set aside.

9. Criminal Application is disposed of.

[BHARAT P. DESHPANDE, J.] [SARANG V. KOTWAL, J.]
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