

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

CRIMINAL APPLICATION NO. 386 OF 2022

1. Mohd. Farooque Ibrahim Shah

2. Abid Mohd. Farooque Shah

...Applicants

Versus

1. The State of Maharashtra

2. Shafi @ Pappu Ibrahim Shah

...Respondents

Mr. Arif Ali M. Ali for the Applicants

Mr. K. V. Saste, A.P.P for the Respondent No.1-State

Mr. Viraj Shelatkar for the Respondent No. 2

CORAM: REVATI MOHITE DERE &

R. N. LADDHA, JJ.

WEDNESDAY, 9th NOVEMBER 2022

P.C :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Mr. Shelatkar waives notice on behalf of the respondent No.2.

3 By this application preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR bearing C.R. No. 384/2021 registered with the Virar Police Station, Palghar, at the behest of the respondent No.2, for the alleged offences punishable under Sections 324, 323, 427, 504, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the applicants and the respondent No. 2 have amicably settled their dispute.

4 Perused the papers. The applicant No. 1 is running a motor garage and is in the business of buying and selling of old cars. The applicant No. 2, aged 21 years, a student, is the son of the applicant No. 1. It is not in dispute that the applicant No. 1 and the respondent No. 2/original complainant are real brothers. It appears that there is a dispute between the applicant and the respondent No. 2 with respect to a piece of land situated at Kopri Naka, Near Government Guest House, Virar, Vasai, District Palghar. According

to the respondent No. 2, the incident took place on 27th April 2021 at about 8:30 p.m. It is alleged by the respondent No. 2 that the applicants picked up a quarrel with him on property issue. In the said quarrel, the applicants are alleged to have abused and assaulted the respondent No. 2. It appears that when the family members of the respondent No. 2 intervened in the quarrel, they too were abused and assaulted by the applicants. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Judicial Magistrate First Class being RCC No. 757/2022.

5 During the pendency of the aforesaid proceedings, the parties who are related, amicably settled their dispute. Accordingly, the respondent No. 2 filed his affidavit giving his no objection to the quashing of the aforesaid C.R. The said affidavit is at page 84 of the application. In the said affidavit dated 2nd June 2022, duly affirmed before the Notary, the respondent No. 2 has stated that the dispute was over the share in the property, pursuant to which, both sides

have filed complaints against each other. In the said affidavit, respondent No. 2 has further stated that they have amicably settled their dispute and as such, he has no objection to the quashing of the proceedings initiated at his behest. Since one Zubair Shafi Shah aged about 15 years, was also injured in the said incident/quarrel, his father Shafi Ibrahim Shah has filed an affidavit on behalf of his son. The said affidavit dated 4th April 2022 is at page 77 of the application. The same is duly affirmed before the Assistant Registrar. In the said affidavit, he has stated that the dispute is amicably settled between the parties who are *inter se* related and that he has no objection to the quashing of the FIR.

6 A perusal of the injury certificate shows that Shafi Ibrahim Shah i.e. the respondent No. 2 had sustained a simple injury on his face and head and Zubair Shafi Shah, aged 15 years, had also sustained a simple injury on his head and face. The injury certificates are at pages 43 and 45 of the application. It appears that one Rashida Shafi Shah has also suffered an injury on her back which is

also stated to be a simple injury. The said Rashida Shah has also filed her affidavit which is at page 84 of the application. It is dated 2nd June 2022. The said affidavit is duly notarized before the Notary. In the said affidavit, injured Rashida Shah has also given her no objection to the quashing of FIR bearing No. 384/2021 registered with the Virar Police Station, Palghar.

7 Respondent No. 2 is present in Court and so is Zubair. Learned counsel tendered self attested xerox copies of the Aadhar cards of the respondent No. 2 and Zubair. The same are taken on record. Learned counsel for the respondent No.2 identified respondent No.2 and Zubair. Learned A.P.P has verified the original Aadhar cards of the respondent No.2 and Zubair. On being questioned, both of them reiterate what is stated by them in their affidavits.

8 It appears that Rashida Shah could not remain present today, as she has recently delivered a child.

9 Considering the nature of offence and the relations between the parties; the injuries sustained by the respondent No.2; the amicable settlement between the parties; the affidavits of the respondent No. 2 and the other two injured and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the application.

10 The application is accordingly allowed. The FIR bearing C.R. No. 384/2021 registered with the Virar Police Station, Palghar, as against the applicants and consequently, the proceedings pending before the learned Judicial Magistrate First Class is also quashed and set-aside.

11 The applicants to deposit a sum of Rs. 5,000/- each, with the Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060, as costs. The said cost to be deposited within three weeks from today.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

12 Rule is made absolute in the aforesaid terms.

Application is disposed of accordingly.

13 The above order is subject to costs being deposited as stated aforesaid.

14 List on **13.12.2022**, under the caption `for compliance`.

15 All concerned to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.