

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

CRIMINAL APPLICATION NO. 434 OF 2020

1. Gopalan Balsubramanian
Aged 50 Years, Occ: Business
Residing at 805 B Wing,
Dattani Shelter,
Opp. Oshiwara Bus Depot,
Link Road, Goregaon (West),
Mumbai – 400 104.

2. Pradeep Bhatia
Aged 38 Years, Occ: Business
Residing at 506 B Wing,
Dattani Shelter,
Opp. Oshiwara Bus Depot,
Link Road, Goregaon (West),
Mumbai – 400 104.

... Applicants

Versus

1. The State of Maharashtra
(At the instance of
Bangur Nagar Police Station)

2. Jitendrakumar Shantilal Verma
Aged 50 Years, Occ: Business
Residing at 204 B Wing,
Dattani Shelter,
Opp. Oshiwara Bus Depot,
Link Road, Goregaon (West),
Mumbai – 400 104.

... Respondents

Mr. Sandeep D Kadam for the Applicant.

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

Mr. Bihari Dubey for the Respondent No.2.

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 23rd NOVEMBER, 2022

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith with the consent and at the request of the learned counsel for the parties.

3. By this Application, under Section 482 of the Code of Criminal Procedure, the Applicants seek the quashing of the FIR No. 244 of 2017 dated 2nd September 2017, for the offences punishable under Sections 323, 324, 504 read with Section 34 of the Indian Penal Code, registered against them at Bangur Nagar Police Station, Mumbai, at the instance of Respondent No.2. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. It is alleged in the FIR that on 2nd September 2017, at about 7:30 p.m., Applicant No.2 slapped on the cheek of one Mohammad Asif Riyaz and also assaulted Respondent No.2 by *Kada* and Applicant No.1 beat one Maaz Karodia by fist blow.

5. After investigation, a charge sheet was filed vide Criminal Case No. 6802471/PW/2017, pending before the Metropolitan Magistrate, 68th Court, Borivali, Mumbai.

6. During the pendency of the proceedings above, the parties amicably settled their dispute and entered into consent terms duly affirmed before the Notary. In the said consent terms, it is stated that the parties wish to put an end to the proceedings pending before the learned Metropolitan Magistrate, 68th Court, Borivali, Mumbai, bearing C.C. No. 6802471/PW/2017. Respondent No.2, along with Maaz Abdulla Karodia, are present before this Court and tendered their consent affidavits and photocopies of their Aadhar Cards, duly attested by them. In the said affidavits,

Respondent No.2 and Maaz Karodia have given no objection to the quashing of the CR/proceedings above. On being questioned, they reiterated what they stated in their affidavits. The affidavits and the photocopies of the Aadhar Cards are taken on record. Learned counsel for the Respondent No.2 has identified Respondent No.2 and Maaz Karodia, and the learned APP has verified the original Aadhar Cards.

7. The learned APP for Respondent No.1-State submits that appropriate orders may be passed.

8. It revealed from the record that Respondent No.2, as well as Maaz Karodia, had filed the consent affidavits duly affirmed before the Notary. Upon perusal of these affidavits, it is seen that Respondent No.2, as well as Maaz Karodia, who was allegedly assaulted, have no grudge or grievance against the Applicants, nor do they wish to proceed further in the impugned FIR. Admittedly, the parties reside in the same locality, and since the parties amicably settled their dispute, the possibility of conviction is

remote and bleak. Further continuation of the proceedings arising out of the impugned C.R. No. 244 of 2017 would be tantamount to the abuse of the process of law. Having regard to the peculiar facts and circumstances of the case, without entering into a detailed analysis, we see no difficulty in quashing the impugned FIR. Accordingly, the Application is allowed, and the impugned C.R. No. 244 of 2017, registered at Bangur Nagar Police Station, Mumbai, and Criminal Case No.6802471/PW/2017 emanating therefrom, are quashed and set aside.

9. Rule is made absolute in the above terms.

10. Learned counsel for Respondent No.2 to file his *Vakalatnama*, if not filed, within two weeks of the uploading of this order.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2023.01.04
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