

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

CRIMINAL APPLICATION NO. 684 OF 2021

Iram A. Sayed

...Applicant

Versus

State of Maharashtra & Anr.

...Respondents

Mr. Virendra Kumar Rai for the Applicant.

Ms. S. D. Shinde, APP for the Respondent-State.

Ms. Havisha Daisy Irani, Respondent No. 2- in-person present.

**CORAM : PRASANNA B. VARALE AND
SURENDRA P. TAVADE, JJ.**

DATE : 17th FEBRUARY, 2022.

P.C. :

. Heard learned Counsel for the Applicant and the learned APP
for the Respondent-State.

2. The Applicant has approached this Court for seeking
quashment of FIR in C.R. No. 446 of 2021 registered with Bandra
(West) Police Station, for the offences punishable under Sections 448,
427, 323 r/w 34 of Indian Penal Code.

3. The facts giving rise in the present petition can be summarized
as follows:

Respondent No. 2 had entered into leave and license agreement with the father of present Applicant in respect of Flat No. G-7, Mon Repos CHSL, Waroda Road, Bandra (West), Mumbai. In pursuance of the agreement, Respondent No. 2 started staying in the said flat along with her aged mother. The said agreement was for a period of 11 months, which ended in the month of July, 2020. Due to the pandemic situation, the said leave and license was extended till May, 2021. It is contended that after completion of the period of second agreement, the Applicant issued legal notice to Respondent No. 2 for vacating the flat.

4. It is alleged that on 28th July, 2021 at about 5:30 p.m., when Respondent No. 2 had gone out of the house, at that time, the Applicant entered into house of Respondent No. 2 along with her mother and others. They damaged articles kept in the house. Hence, FIR came to be lodged against the Applicant. During the pendency of litigation, the parties have amicably settled their dispute outside the Court.

5. Respondent No. 2 has filed affidavit, wherein she has categorically mentioned that she does not wish to hold anything against the Applicant. She has settled all disputes and misunderstandings amicably. Respondent No. 2 has also stated in Paragraph No. 10 of the affidavit that she on her own consent and

without any force or coercion filed affidavit for quashing C.R.No.446 of 2021 registered with Bandra (West) Police Station. Respondent No. 2 is present in the Court along with her Counsel. On specific query made to her, she reiterated that on her own will and wish, she filed the affidavit-in-reply. She has not raised any objection for quashing the FIR.

6. Considering the above referred facts, we are of the opinion that continuation of the proceedings arising out of C.R.No. 446 of 2021 would be nothing but an act of futility and we are of the opinion that learned Counsel for the Applicant has made out a case for allowing the application.

7. In these circumstances and especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi V/s. State of Haryana AIR 2003 SC 1386** we are of the view that no purpose would be served by keeping the criminal proceedings except burdening the Criminal Courts which are pending already overburdened. In that view of the matter and in the interests of Justice, the subject FIR is required to be quashed.

8. In view of the above fact, the petition is allowed in terms of prayer clause (a) and disposed of accordingly.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)