

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

CRIMINAL APPLICATION NO.1045 OF 2021

Mirajuddin Moin Baksh Qureshi		
And Others	...	Applicants
Versus		
The State of Maharashtra	...	Respondent

**ALONG WITH
CRIMINAL APPLICATION NO.1050 OF 2021**

Dr. Punit Vinod Garg		
And Others	...	Applicants
Versus		
The State of Maharashtra	...	Respondent

Mr. Jigar Agarwal for the Applicants in Criminal Application No.1045 of 2021.

Mr. Bagade U. Gajanan for the Applicants in Criminal Application No.1050 of 2021.

Mr. K.V. Saste, APP for Respondent-State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 10 MARCH 2022

P. C. :

. Head Mr. Jigar Agarwal for the Applicants in Criminal Application No.1045 of 2021, Mr. Bagade U. Gajanan for the Applicants in Criminal Application No.1050 of 2021 and Mr. K.V. Saste, APP for Respondent-State.

2. Bhoiwada Police Station, Mumbai has filed charge-sheet for the offences punishable under Sections 332, 353, 504 read with 34 of the

Indian Penal Code and under Section 4 of Maharashtra Medicare Service Person and Medicare Service Institute Act against four accused persons. They are the Applicants in Criminal Application No.1045 of 2021. The offence was registered on 25 September 2015 on the complaint of Dr. Suhas Raghunath Chaudhari. The sum and substance of the Applications is that the present Applicants have assaulted the doctors, namely, Dr. Punit Vinod Garg and others. A boy, namely, Abu Sufiyan Qureshi aged about three years, resident of Shivaji Nagar, Govandi was admitted in KEM Hospital on 24 September 2015 for treatment of Dengue. The incident of assault has taken place on account of the admission of the boy. As a result, Dr. Suhas Chaudhari lodged the complaint with Bhoiwada Police Station and charge-sheet was filed, which is pending in the Sessions Court at Mumbai.

3 Whereas, offence is registered with the same Bhoiwada Police Station on 9 January 2016 for the offences punishable under Sections 326, 323, 324, 504, 506 II and 120-B read with 34 of the Indian Penal Code against in all three doctors of KEM Hospital. They are the Applicants in Criminal Application No.1050 of 2021. The said offence was registered on the complaint of one Miraj Uddin Qureshi, who is the father of a boy, Abu Sufiyan Qureshi. The said boy died when undergoing treatment and three doctors assaulted the first informant and other relatives when they tried to inquire about the death of a boy Abu Sufiyan Qureshi. On completion of investigation, charge-sheet is filed for the offences under Section 323 and 324 read with Section 34 of the Indian Penal Code, which is pending in the Court of learned Metropolitan Magistrate's 29th Court Bhoiwada. It is registered on the background of filing of a private complaint before Bhoiwada Court.

4 During pendency of these proceedings, both parties have settled disputes and have entered into Consent Terms on 24 February 2020. It is signed by all the Applicants from the both Applications. Its copy is annexed.

5 It is true that offence under Section 353 of Indian Penal Code is triable by the Court of Sessions and it is also true that both these incidents have occurred on the background of hospitalization of a boy Abu Sofiyan Qureshi. The boy has already died. It is not for this Court to inquire about the reasons for that. The Court can understand the sentiments of relatives of the patient boy. Admittedly the Court can also understand that there are many factors which are beyond the control of doctors. After passing of time, both the parties have understood that the loss caused due to death of a boy, cannot be compensated. Hence, wiser counsel have prevailed upon the parties and they have put an end to the litigations. It is in the interest of doctors, so also it is in the interest of relatives of the boy, so that they will try to forget the memories. Hence, the case of quashing is made out. Hence, Order.

: O r d e r :

(a) The Applications are allowed.

(b) S.C. No.805 of 2019 arising out of FIR No.316 of 2015 pending on the file of the Sessions Court at Mumbai for the offences punishable under Section 332, 353, 504 read with 34 of the Indian Penal Code is quashed and set aside.

(c) C.C. NO.1145/PW/2016 arising out of FIR No.1 of 2016 pending on the file of Court of Metropolitan Magistrate's

CHITTEWAN

29th Court at Bhoiwada, Mumbai for the offences punishable under Section 323, 324 read with 34 of the Indian Penal Code is quashed and set aside.

RAJESH
VASANT
CHITTEWAN

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RAJESH VASANT
CHITTEWAN
Date: 2022.03.29
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(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)