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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3825 OF 2021

Mohsin Khan

...Petitioner

Versus

The State of Maharashtra & Ors

...Respondents

Mr. Gaurav Parkar for the Petitioner.

Ms. Aishwarya C. Pawar i/by Mihir M. Sharma for
Respondent No. 2.

Mr. J.P. Yagnik, APP, for the Respondent – State.

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

DATE : JANUARY 03, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. The present Petition is filed with a principal prayer of quashment of first information report bearing Crime no. 0796/2021 registered at Kashimira Police Station. The copy of the report, which is placed on record at page 13-A, shows that Respondent No. 2 who is resident of Janata Colony, Sahargaon, Andheri, working as operational manager in one private company.

Respondent No. 2 was proceeding towards Thane on 21.10.2020 at about 03.00 pm in relation of his office work. Due to the heavy traffic, his vehicle namely, Honda Accord car hit another vehicle Santro car. The owner of the Santo car alighted from his vehicle and started abusing Respondent No. 2. Respondent No. 2 requested him not to abuse but the owner of Santro car did not pay heed. On the contrary, by giving phone calls to some of his friends, he called upon them near fountain hotel and on his call 6-7 persons who were wearing blue and yellow colour shirts reached the spot. Then a scuffle took place there.

3. It is stated in the report that these persons were one Mohsin, Amit and other six unknown persons. Mohsin was carrying helmet and gave a blow of helmet causing an injury to Respondent No. 2.

4. It is submitted by learned Counsel for Petitioner that though report refers to an injury, Respondent No. 2 has only suffered abrasion. It is then submitted that a better sense has prevailed over the parties and they arrived at an amicable settlement.

5. Our attention was invited to the consent affidavit filed on behalf of Respondent No. 2 – Original Complainant placed on record at exhibit b, page 14.

6. Learned Counsel for Respondent No. 2 submitted that the said affidavit is an outcome of free will of Respondent No. 2. It maybe useful to refer to certain statements made in affidavit of Respondent No. 2 and the same reads thus:

3. I state that as a first informant I do not have any complaints or grievances against the Petitioner and other accused anymore and the present Complaint came to be registered out of an miscommunication of the information received. I further state that the disputes between me and Petitioner have been fully and finally settled and I have no further grievance against the Petitioner of any nature whatsoever. I state that in view of the amicable settlement of disputed I further have no objection if the C.R. No. 0769 of 2021 investigated by Kashimira Police Station is quashed against the Petitioner. I state that I grant full and unconditional consent for quashing of the FIR being C.R. No. 0769

of 2021 investigated by Kashimira Police Station by the Orders of this Hon'ble Court. I further say that, I do not want to pursue the said complaint and further proceedings arising out of it as the same shall not serve any purpose to anybody. Hence, it is my desire and also humble request not to proceed and/or pursue with the above F.I.R. and any criminal proceedings arising out of it.

7. Perusal of report submitted to this Court at the instance of officer of the Kashimira Police Station show that the investigating agency was unable to trace-out the identity of the other persons and could only trace out three persons namely, Petitioner Mohsin, one Amit and driver of vehicle one Viren Gandhi. In so far as person Amit is concerned, in the report even the complete name of Mr. Amit is not referred to and it is stated that the name and address of Mr. Amit is not known.

8. Perusal of report further show that either these offences are minor in nature or the offences are under Motor Vehicles Act.

9. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the FIR alive, except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of proceeding in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the subject FIR in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

10. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065], we are of the considered view that there is no impediment in quashing the FIR in question.

11. The Petitioner as well as Respondent No. 1 through their respective Counsel submitted before this Court that they as a matter of repentance would like to render community service as may be directed by this Court to grant the relief sought for in this Petition.

12. Considering all these facts, we are of the opinion that the Counsel for Petitioner has made out a case for allowing the Petition.

13. Accordingly, the Petition is allowed. The first information report bearing C.R. No. 0796 of 2021 registered with Kashimira Police Station for offences punishable under Sections 324, 143, 147, 149 and 504 of IPC, is quashed and set aside subject to the Petitioner and Respondent No. 2 providing community service in the nature of attending Shantidham Ashram situated at Gorai Road, Boriwali (W) on every Sunday from 10.00 am to 02.00 pm for a period of 2 months i.e. for 8 Sundays consecutively.

14. The Head of Shantidham Ashram shall allocate appropriate works/services to the Petitioner and Respondent no. 2 in their institution, which will be

performed/rendered by the Petitioner and Respondent no.2 as part of community service. The Petitioner and respondent no.2 shall obtain a certificate from the head of Shatidham Ashram of having rendered community service satisfactorily for the period of two months and place the same on the record of this petition.

15. The quashment of FIR is subject to the Petitioner and Respondent no.2 producing the certificates from Superintendent / Director of Shantidham Ashram and placing the same on the record of this Court within three months from today. Failing to do so, the order quashing FIR shall stand recalled automatically and petition shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as *non-est*.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)