

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

CRIMINAL APPLICATION NO. 344 OF 2017

Machindra Vitthal Kokate
Age: 40 Years, Occ.: Teacher,
Residing at Koparli, Post Nere,
Tal.: Panvel, Dist. Raigad.

... Applicant

Versus

1. State of Maharashtra
(Through: Assist Commissioner
of Police, Panvel Division, Navi
Mumbai, Dist. Raigad.)

2. Smt. Sunita Hiru Khadke,
Age: 25 Yrs., Occ.: Labour,
Residing at Vangani, Post Nere,
Tal: Panvel, Dist: Raigad.

... Respondents

Mr. P. A. Pol a/w Sharad Suryawanshi i/by Pol Legal Juris for
Applicant.

Mrs. M. M. Deshmukh, APP for the Respondent No.1-State.

Ms. Smita R. Gaidhani for the Respondent No.2

Mrs. Sunit H. Khadke, Complainant-present in Court.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 14th FEBRUARY 2023

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

Heard learned counsel for the parties.

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

3. By this Criminal Application, under Section 482 of the Code of Criminal Procedure, 1973, the applicant seeks the quashing of FIR No. 22 of 2017 dated 23rd February 2017, registered against him at New Panvel Police Station, at the instance of Respondent No.2 for the offences punishable under Sections 354 and 506 of the Indian Penal Code and Section 3 (1), (w)(i)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. It is alleged that on 22nd February 2017, the Applicant had inappropriately touch and outrage the modesty of Respondent No.2. It is further alleged that though the Applicant/accused was aware about the fact that Respondent No.2/victim belongs to Schedule Caste he misbehaved with her.

5. Perused the papers. During the pendency of this Application, we are informed that the parties have resolved their dispute amicably. Learned counsel for Respondent No.2 pointed

out the consent affidavit filed by Respondent No.2 dated 29th March 2017, duly affirmed before the Notary. It is stated in the affidavit that she has no objection to quashing aforesaid FIR. Learned counsel for the parties jointly submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. Respondent No.2 is present in person. On being questioned, she reiterates what is stated in the affidavit. She further stated that she is illiterate and therefore, did not know the contents of the FIR and had merely put thumb impression on the complaint without understanding the contents of it. She has stated that she has no complaint against the Applicant/accused and no such incident as alleged in the FIR had taken place. Learned counsel for Respondent No.2 tendered photocopy of the Aadhar Card of Respondent No.2 duly attested by her. The learned APP has verified the original Aadhar Card. The photocopy of her Aadhar Card is taken on record. Respondent No.2 has been identified by her counsel. We are informed that the charge-sheet has not yet been filed.

6. The learned counsel for the parties submitted that the present case is squarely covered by the law laid by the Hon'ble Supreme Court in the case of *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

7. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

8. It revealed from the record that Respondent No.2 has filed a consent affidavit dated 29th March, 2017. It also revealed from the record that Respondent No.2 had also filed an affidavit before the Court of learned Special Judge, Alibaug at the time of hearing of the bail application of the applicant, wherein she has stated that due to misunderstanding and misconception she had lodged complaint. It also revealed from the record that the sister of Respondent No.2 also filed an affidavit stating that no such incident as alleged in the FIR had ever been taken place. Respondent No.2 is present before the Court and stated that she has no objection if the FIR in question is quashed.

9. We have examined the facts of the present case in the light of the law laid down by the Hon'ble Supreme Court in the case of ***Gian Singh and Narinder Singh (supra)***. Based on the material on record, it is apparent that the FIR was lodged due to misconception and misunderstanding. Since the parties have amicably settled their dispute, the possibility of conviction is remote and bleak. Moreover, prima facie, no offence has alleged under Section 3(1)(w)(i)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 is made out. Since Respondent No.2 will not support the allegations made by him in the impugned FIR, in the peculiar facts and circumstances, nothing fruitful will come out of the prosecution.

10. Considering these facts and circumstances, we see no difficulty in quashing the impugned FIR. Accordingly, the Criminal Application is allowed. The impugned FIR No. 22 of 2017 at New Panvel Police Station is quashed and set aside.

11. Rule is made absolute in the above terms.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

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BIPIN DHARMENDER
PRITHIANI
Date: 2023.02.16
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