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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1043 OF 2023

Shahaji Rajaram Kadam

..... Applicant

V/s.

State of Maharashtra

..... Respondent

WITH

CRIMINAL APPLICATION NO.1020 OF 2023

Subhash Dnyanu Kadam & Ors.

..... Applicants

V/s.

State of Maharashtra & Anr.

..... Respondents

Mr. S. A. Rajeshirke for the Applicant in APL No.1043/2023 and for Respondent No.2 in APL No.1020/2023.

Mr. Shrishail Sakhare for the Applicants in APL No.1020/2023 and for Respondent No.2 in APL No.1043/2023.

Mr. S. S. Hulke, APP for the Respondent-State.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

DATE : 30th August, 2023.

P. C. :

1. Criminal Application No.1043/2023 is filed under section 482 of the Code of Criminal Procedure, 1973 for quashing of Regular Criminal Case No.20/2008 pending on the file of Judicial Magistrate, First Class at Atpadi arising out of FIR No.83/2007 dated 5th December 2007 registered with Atpadi Police Station, District Sangli under sections

326, 323 and 504 of the IPC, with the consent of respondent No.2, the informant.

2. Criminal Application No.1020/2023 is filed under section 482 of Code of Criminal Procedure, 1973 for quashing of Regular Criminal Case No.28/2008 pending on the file of Judicial Magistrate, First Class at Atpadi arising out of FIR No.84/2007 dated 7th December 2007 registered with Atpadi Police Station, District Sangli under sections 325, 506 and 504 and 34 of the IPC, with the consent of Respondent No.2, the informant.

3. Aforesaid cases are cross cases lodged by the respective Respondent No.2 in the said Applications.

Learned Advocates for the Applicants submitted that, the alleged incident occurred over the cultivation of agricultural lands, as both the groups were claiming their right of way so also cultivation on it.

4. Learned counsel for the Applicants submitted that, the parties have resolved their differences amicably and respective Respondent No.2 in both the Applications have decided to give their consent for quashing of the aforesaid respective criminal cases initiated at their instance.

5. Perusal of FIR No.83 of 2007 indicates that, the allegations

therein by Respondent No.2-original complainant are that on 14th October 2007 there was altercation between the Respondent No.2's brother and the Applicant and subsequently the Applicant came there along with his brother and abused and assaulted the Respondent No. 2 with the blunt edge of sickle, as a result of which he suffered injury to his left hand palm. The injury certificate annexed at page 29 shows that, there was fracture to the bone of 2nd, 3rd and 4th fingers of left hand.

6. The cross FIR No.84 of 2007 alleges that on 14th October 2007, the Applicants and others came to the spot of incident along with other people and assaulted Respondent No.2 with stick on his leg, thighs and lower abdomen. The injury certificate annexed at page 28 of the application indicates, left fibula fracture caused by hard and blunt object.

7. Considering the allegations in the cross FIRs, it appears that there was an altercation between two groups which has resulted into assault upon each other leading to the injuries as indicated in the medical certificates.

8. Respondent No.2 in Application No.1043 of 2023 has filed his Affidavit dated 14th August 2023 giving consent for quashing of FIR

No. 83 of 2007. In the said Affidavit dated 14th August 2023, it is stated that the cross FIRs were initiated due to misunderstanding and on account of dispute of civil nature. It is further stated that, the disputes have been settled between the parties and as such they have no objection for quashing of the FIR.

9. In Application No.1020 of 2023 Respondent No.2 has filed his Affidavit dated 14th August 2023 stating that, the cross proceedings were initiated due to misunderstanding. It is further stated that the disputes have been amicably settled between the parties and they have no objection for quashing the FIR No.84 of 2007.

11. Respondent Nos.2 in both the applications are personally present in the Court and through their respective Advocates reiterate the contents of their Affidavits dated 14th August 2023 and their 'no objection' for quashing of the proceedings in question.

12. On overall consideration of the allegation made in cross FIRs and taking into consideration the fact that the parties have amicably settled the dispute and decided to give a quietus to the dispute, we are inclined to quash Regular Criminal Case No.20/2008 pending on the file of Judicial Magistrate, First Class at Atpadi and Regular Criminal Case No.28/2008 pending on the file of Judicial Magistrate, First Class at

Atpadi.

13. As we expressed our opinion for quashing of the said proceedings – RCC No. 20 of 2008 and RCC No. 28 of 2028 pending on the file of J.M.F.C., Atpadi, learned advocate for the Applicants, on instructions, submitted that the Applicants will pay a cost of Rs.25,000/- each, to Tata Memorial Centre (Tata Memorial Hospital), Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from today. The said statements are accepted as undertakings given to this Court.

14. We direct the Applicants to pay a cost of Rs.25,000/- each, to Tata Memorial Centre (Tata Memorial Hospital), Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

Details of the bank account for payment of cost are as under:-

Bank Name	:-	Central Bank of India.
Branch Name	:-	TMH, Parel, Mumbai - 400 012.
Account Name	:-	Tata Memorial Centre (Tata Memorial Hospital)
Account Number	:-	1002449683
IFSC Code	:-	CBIN0284241

The Applicants to deposit the said cost of Rs.25,000/- each within stipulated period as noted above and submit receipts of the same in the Registry of this Court.

15. In view of above and subject to payment of cost, both the applications are allowed in terms of prayer clause (a).

16. It is made clear that if the cost is not paid within the stipulated period as mentioned above, the applications shall stand revived automatically and in that event the trial Court would proceed with the said cases expeditiously.

17. List the applications on board on 27th September 2023, under caption 'for reporting compliance' of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)