

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1170 OF 2023

Naziya Asgar Sayyed and ors. ...Applicants

Versus

The State of Maharashtra and anr. ...Respondents

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Mr. M. A. Khan a/w Tajammul U. Khan i/b Capri Legal for the Applicant.

Ms. M. M. Deshmukh, APP for the State.

Ms. Vidhi Dugad i/b Sharon Fernandez for Respondent No. 2.

Mr. Pradeep Khade, PSI, Dongri Police Station, Mumbai.

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

DATED : 9 OCTOBER 2023

P.C. :-

The prayer is for quashing of FIR in Crime No. 149 of 2023 registered with Dongri Police Station for an offence punishable under Sections 323, 341, 352, 504, 506 r/w 34 of the Indian Penal Code and Section 4 of Maharashtra Medicare Service Persons And Medicare Service Institutions (Prevention Of Violence And Damage Or Loss To Property) Act.

2. The genesis of the offence is, based on death of said new born child of applicants on 10 June 2023 in the hospital of respondent/complainant. Present applicants assaulted the respondent/complainant alleging medical negligence.
3. The respondent/complainant has placed on record the settlement arrived at between the parties, which was notarized on 2 August 2023.
4. Apart from above, the respondent has placed on record consent affidavit thereby stating that she is extending consent for quashing in view of the apology tendered by the applicants with an assurance not to repeat same Act in future.
5. In the aforesaid background, we have requested learned APP Ms. Deshmukh, to interact with the respondent so as to verify the truthfulness of the contents.
6. The respondent/complainant through learned APP, states that she has voluntarily given the affidavit and extending consent for quashing of the offence in view of above assurance given by the applicants.

7. In view of above, particularly having regard to the consent affidavit, we deem it appropriate to allow the present Application in terms of prayer clause (b) subject to payment of cost of Rs. 10,000/- by each applicant to the Central Police Welfare Fund within a period of six weeks from today and the receipt of payment of cost shall be produced with the Registry within same period, failing which the order of quashing the criminal proceedings shall stand recalled. The Application is disposed of in aforesaid terms.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)