

(2017) 05 BOM CK 0159
In the Bombay High Court
Case No : 80 of 2017

BHANU SUNIL KHAJURIA, & ORS.

APPELLANT

Vs

STATE OF GOA Through the Public Prosecutor, & Ors.

RESPONDENT

Date of Decision : 04-05-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#), [Section 320](#) - Saving of inherent powers of High Court - Compounding of offences
[Indian Penal Code, 1860](#), [Section 141](#)

Citation : (2017) 05 BOM CK 0159

Hon'ble Judges : F.M.Reis, Nutan D. Sardessai

Bench : DIVISON BENCH

Advocate : V.Amonkar, M. Amonkar, S.Redkar

Judgement

1. Rule. Heard forthwith with the consent of the parties. Shri M. Amonkar, learned Additional Public Prosecutor waives notice on behalf of the respondents no.1 and 2 and Shri S.Redkar, learned Advocate waives notice on behalf of the respondent no.3.

2. The petitioners take exception to the FIR no.154/2016 dated 30.10.2016 registered with the respondent no.2 based on the complaint lodged by the respondent no.3 for the offences punishable under Sections 323, 354, 504, 141, 143, 147 read with Section 149 IPC and Section 8 of the Goa Children's Act, 2003. It was their case that sometime on 29.10.2016 at 21.30 hours while the respondent no.3 alongwith her friends and relatives were on the way back, there was a scuffle between them and the petitioners which resulted in the filing of the complaint on 30.10.2016 resulting in the registration of the FIR. The petitioner no.1 had also filed a complaint against the respondent no.3 and the other persons involved in the scuffle on 30.10.2016 and an FIR was registered bearing No.155/2016. There has been a composite understanding and an overall amicable resolution of the dispute between the petitioners and the respondent no.3 and others who had filed a separate petition invoking the powers of this

Court under Section 482 CrPC for quashing the FIR.

3. The petitioners and the respondent no.3 had amicably settled the disputes and the differences between them and did not wish to prosecute the case any further. They also do not wish to strain the relationship between themselves by proceeding with the said criminal case and, therefore, invoked the inherent jurisdiction of this Court under Section 482 CrPC. Thus, keeping in mind the greater view of the petitioners as well as the respondent no.3 and other persons involved in the incident, they had agreed to settle the disputes and differences between themselves and had filed the present petition. The petitioners being students were affected in their academic career to a colossal extent and therefore, prayed for the quashing of the FIR and consequentially the criminal case.

4. The respondent no.3 filed her affidavit reiterating on oath that the petitioners had approached her and represented that the criminal complaint and the consequent proceedings were on account of a misunderstanding between them. She had no grievance against the petitioners and was not desirous of continuing the criminal proceedings which was causing inconvenience to her and the other persons arrayed as witnesses in the criminal case. She was, therefore, freely consenting to quashing of the criminal proceedings and the chargesheet against the petitioners.

5. We have heard Shri V.Amonkar, learned Advocate for the petitioners and Shri S.Redkar, learned Advocate for the respondent no.3 apart from Shri M.Amonkar, learned Additional Public Prosecutor for the respondents no.1 and 2- State .

6. It is apparent that the FIR came to be registered at the behest of the respondent no.3 on account of some misunderstanding and the scuffle which took place between them on the night of 29.10.2016 while they were out for dinner at Porvorim. It is equally a matter of record that a cross-complaint has been filed against the respondent no.3 at the instance of one of the petitioners arising from the same scuffle on the night of 29.10.2016 giving rise to the registration of another FIR. The respondent no.3 in the present case has expressed on oath that she had filed the complaint out of misunderstanding and that she did not want to pursue the case involving undue hardship to her and also to her witnesses. Besides, the parties had otherwise settled the disputes between themselves and who had no other criminal antecedents.

7. All the offences except that under Section 354 IPC and Section 8 of the Children's Act are non-compoundable in terms of Section 320 CrPC. Nonetheless, considering the factual matrix and that the parties have amicably settled the disputes between themselves which have arisen on account of petty scuffle and that all the petitioners including the respondent no.3 are students who have a long career ahead and considering the law laid down by the Hon''ble Apex Court in Gian Singh Vs. State of Punjab and another [(2012)10 SCC 303] and Yogendra Yadav Vs. State of Jarkhand [(2014) 9 SCC 653] and that there

should not be a lame prosecution and undue wastage of the Court time, we find it appropriate in the circumstances of this peculiar case to allow the petition.

8. In the result, we pass the following : ORDER

Rule is made absolute in terms of prayer clause (a). The petition is accordingly disposed off with no order as to costs.