

(2017) 01 BOM CK 0076

In the Bombay High Court

Case No : Criminal Application No. 6032 of 2016

Kalu Pahelwan

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 05-01-2017

Acts Referred:

Arms Act, 1959 — Section 25, Section 4
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 143, Section 143, Section 147, Section 147, Section 148, Section 149, Section 149, Section 307, Section 323, Section 324, Section 336, Section 337, Section 506

Citation : (2017) 2 BomCR(Cri) 29 : (2017) 2 MhLJCrl 272

Hon'ble Judges : S.S. Shinde and K.K. Sonawane, JJ.

Bench : Division Bench

Advocate : Mr. S.D. Hiwrekar, Advocate, for the Applicants in Criminal Application No. 6032 of 2016; Mr. S.G. Karlekar, APP, for the Respondent No. 1/ State in Criminal Application No. 6032 of 2016; Mr. S.S. Kazi, Advocate, for the Respondent No. 2 in Criminal Application No. 6032 of 2016; Mr. S.S. Kazi, Advocate, for the Applicants in Criminal Application No. 6030 of 2016; Mr. S.G. Karlekar, APP, for the Respondent No. 1/State in Criminal Application No. 6030 of 2016; Mr. S.D. Hiwrekar, Advocate, for the Respondent No. 2 in Criminal Application No. 6030 of 2016

Final Decision : Dismissed

Judgement

S.S.Shinde, J.—Heard.

2. Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.

3. The learned counsel appearing for applicants and informants i.e. respondent no.2, in both Criminal Applications, jointly submit that the parties to this application, with an intervention of the elderly persons in the community have settled the dispute amicably. In both the cases, the accused and the complainant/ injured are belonging to the same community and most of them are resident in

the same locality, and therefore, they decided to settle the dispute amicably, and accordingly, they have amicably settled the dispute. Therefore, they submit that the First Information Report bearing Crime No. 105/2016 registered at City Police Station, Nandurbar, for the offences punishable under Sections 143, 147, 149, 324, 323, 337 of the Indian Penal Code and Section 4/25 of the Indian Arms Act and the First Information Report bearing Crime No.103/2016 registered at City Police Station, Nandurbar, for the offences punishable under Sections 307, 143, 147, 148, 149, 336 and 506 of the Indian Penal Code may be quashed and set aside.

4. Pursuant to the notices issued to the respondents, the terms of settlement are filed i.e. compromise between the parties. The said documents are signed by the applicants and also the informants in both Criminal Applications.

5. We have carefully perused the investigation papers. We have also asked the injured persons, who are present in the Court, whether the compromise is an outcome of their voluntary act with free will and consent or same is under coercion. They stated that, compromise between the parties is with free will and without any coercion. They further stated that, they have sustained simple injuries and said injuries are not inflicted by the dangerous weapons.

6. We have considered the facts of the case, terms of compromise, investigation papers, weapons used and medical certificates, in the light of the exposition of law in the case of Narinder Singh and others v. State of Punjab and another [2014] 6 SCC 466 and in particular principles laid down in para 29.1 to 29.7 of the said Judgment, and we are of the opinion that in the peculiar facts of this case, it would be proper to accept the terms of compromise and quash the First Information Reports so as to prevent the abuse of process of law/court. In view of the settlement/compromise, informants are not going to support prosecution case and consequently chances of conviction are blink/remote. The applicants/accused have also stated that they will not indulge into such alleged offences in future.

7. Since applicants and informants have already settled the dispute amicably and they claim that they are from the same community and residing in the same locality, and consequently decided not to proceed with the further proceedings based upon the first information report bearing Crime No.105/2016 registered at City Police Station, Nandurbar, for the offences punishable under Sections 143, 147, 149, 324, 323, 337 of the Indian Penal Code and Section 4/25 of the Indian Arms Act and the first information report bearing Crime No.103/2016 registered at City Police Station, Nandurbar, for the offences punishable under Sections 307, 143, 147, 148, 149, 336 and 506 of the Indian Penal Code, no fruitful purpose will be served to continue the further investigation/ proceedings on the basis of the aforementioned crimes.

8. In that view of the matter, both the First Information Reports i.e. the first information report bearing Crime No.105/2016 registered at City Police Station,

Nandurbar, for the offences punishable under Sections 143, 147, 149, 324, 323, 337 of the Indian Penal Code and Section 4/25 of the Indian Arms Act and the first information report bearing Crime No.103/2016 registered at City Police Station, Nandurbar, for the offences punishable under Sections 307, 143, 147, 148, 149, 336 and 506 of the Indian Penal Code are quashed and set aside.

9. Rule is made absolute on above terms. Both Criminal Applications are disposed of accordingly.