

(2013) 06 BOM CK 0015

In the Bombay High Court

Case No : Criminal Application (Main) No. 105 of 2013

Maximiano Jose Fernandes and Another

APPELLANT

Vs

State of Goa

RESPONDENT

Date of Decision : 17-06-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 864

Hon'ble Judges : U.V. Bakre, J;A.P. Lavande, J

Bench : Division Bench

Judgement

A.P. Lavande, J.—Heard Mr. Ramaiya, Counsel for the petitioners and Mr. Amonkar, Addl. Public Prosecutor for the respondents. Rule. By consent, heard forthwith. By this application, filed u/s 482 Cr.P.C., the petitioners seek quashing of First Information Report No. 189/2009, registered at Panaji Police Station and also seek quashing of the proceedings in Criminal Case No. IPC/219/2011/B pending before the learned Judicial Magistrate, First Class, at Panaji.

2. Pursuant to the report filed by petitioner No. 1, FIR No. 189/2009 was registered at Panaji Police Station against petitioner No. 2 for the offences punishable under Sections 279, 338 of IPC. After completion of the investigation, charge-sheet was filed in the Court of Judicial Magistrate, First Class at Panaji and presently the criminal proceedings are pending before the learned JMFC, Panaji.

3. The petitioners - the first informant and the accused, have filed the present application, seeking quashing of the FIR and the criminal proceedings on the ground that they have amicably settled the dispute amongst themselves. Both the petitioners have filed affidavits in support of the petition.

4. Mr. Amonkar, learned Addl. Public Prosecutor appearing for the respondent has no objection if the application is allowed, subject to payment of reasonable costs.

5. Petitioner No. 2 is being prosecuted for the offences punishable under Sections

279, 338 of IPC. The offences alleged against petitioner No. 2 are not of serious nature and in our view, the settlement between the parties squarely comes within the parameters laid down by the Apex Court in three Judge Bench judgment in the case of Gian Singh Vs. State of Punjab and Another, .

6. In view of the above, we do not find any difficulty in allowing the application. However, the present application has been filed after completion of the investigation and filing of the charge-sheet. Therefore, it is evident that the investigating agency has spent a substantial time in carrying out the investigation, so also the learned Magistrate before whom the criminal proceedings are pending, has dealt with the matter for sometime. Therefore, we deem it appropriate to allow the application, subject to payment of costs, which we quantify at Rs. 10,000/-.

7. In this view of the matter, the application is allowed. Consequently, FIR No. 189/2009 dated 9th August, 2009, registered at Panaji Police Station and Criminal Proceedings against petitioner No. 2 in Criminal Case No. IPC/219/2011/B pending before the learned Judicial Magistrate, First Class, at Panaji are quashed, subject to the petitioners paying costs which are quantified at Rs. 10,000/-. The petitioners shall deposit the costs with the Registry of this Court, within a period of two weeks. Upon deposit, the costs shall be credited in favour of the State of Goa. The proceedings before the learned Magistrate stand quashed upon production of the receipt of payment of costs, before the learned Magistrate. The application stands disposed of.