
(2013) 03 BOM CK 0184

In the Bombay High Court

Case No : Criminal Application (APL) No. 124 of 2013

Sanjay and Others

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 01-03-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Income Tax Act, 1961 — Section 10(22), 11, 2(15), 255(4), 80G
Penal Code, 1860 (IPC) — Section 324, 34

Citation : (2013) ALLMR(Cri) 1941

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : R.M. Daga, for the Appellant; Nitin Rode, Additional Public Prosecutor, for the Respondent

Judgement

M.L. Tahaliyani, J.—Heard. Admit.

2. Heard finally by consent of both the parties.

3. This is an application u/s 482 of the Code of Criminal Procedure filed by the original complainant/injured in Regular Criminal Case No. 231 of 2008 and the accused Nos. 1, 2 and 3 of the same case. Applicant Nos. 1, 2 and 3 are the accused Nos. 1, 2 and 3 respectively and applicant No. 4 is original complainant/injured person. Applicant Nos. 1, 2 and 3 have been convicted for the offence punishable u/s 324 read with Section 34 of the Indian Penal Code and have been sentenced to suffer rigorous imprisonment for one year and to pay fine of rupees one thousand each by the learned Judicial Magistrate First Class. An appeal was filed before the Sessions Court by applicants/accused. The said appeal is pending vide Criminal Appeal No. 191 of 2009 in the Court of Additional Sessions Judge 7 at Nagpur. In the meantime, the dispute between applicant Nos. 1, 2 and 3 on one hand and applicant No. 4 on the other hand has been resolved. This fact was brought to the notice of learned Additional Sessions Judge and an application was also made for grant of permission to compound the offence. As the offence

punishable u/s 324 of the Indian Penal Code is not compoundable, the learned Additional Sessions Judge had rejected the application. Hence the present application u/s 482 of the Code of Criminal Procedure. Considering the amicable settlement between the original accused and the complainant, in my considered view, the application needs to be granted. Original complainant Bhimrao and accused are present before the Court. Complainant Bhimrao has submitted that he has no grievance against applicant Nos. 1, 2 and 3 and that he has voluntarily come forward to resolve the dispute amicably. It is stated by him that applicant No. 1, 2 and 3 are his neighbours and that their relations are now cordial. In view of the fact that peace has prevailed and parties are living in the same neighbourhood amicably, it is just and proper to put an end to the criminal proceedings pending between the parties. A case is made out for exercising powers conferred on this Court by virtue of Section 482 of the Code of Criminal Procedure. Hence, I pass the following order.

i. The judgment and order passed by the learned Judicial Magistrate First Class in Regular Criminal Case No. 231 of 2008 convicting applicant Nos. 1, 2 and 3 for the offence punishable u/s 324 read with Section 34 of the Indian Penal Code is set aside and quashed in view of the amicable settlement between the parties.

ii. The bail bonds, if any, of the applicant Nos. 1, 2 and 3 shall stand cancelled.

iii. Fine, if paid, by them shall be refunded to them.

iv. In view of above order, the appeal pending before learned Additional Sessions Judge-7 at Nagpur will not survive and the said appeal shall stand disposed of accordingly.

v. Bail Bonds, if any, executed before the Sessions Court also stand cancelled.

Present application stands disposed of accordingly.