

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 72 OF 2015**

1. Abhijeet Naik Shirodkar,
major in age,
r/o H. No. 464, Dhaketebhat,
Mandur, Tiswadi, Goa.
 2. Prasad Naik Shirodkar,
major in age,
r/o H. No. 473, Dhaketebhat,
Mandur, Tiswadi, Goa.
- ... Petitioners

Versus

1. State of Goa,
Through the Public Prosecutor,
High Court, Panaji – Goa.
 2. The Police Inspector,
Agacaim Police Station,
Dist – North Goa, Goa.
 3. Prajyoti Naik,
D/o Shabi Naik,
R/o H. No. 432,
Dhaketebhat,
Mandur, Tiswadi, Goa.
 4. Shabi Naik,
R/o H. No. 432,
Dhaketebhat,
Mandur, Tiswadi, Goa.
- ... Respondents

Shri Vibhav Rajiv Amonkar, Advocate for the Petitioners.

Shri S.R. Rivankar, Public Prosecutor for the Respondent Nos. 1 and 2.

Shri Pandurang Shirodkar, Advocate for the Respondent Nos. 3 and 4.

CORAM:- C. V. BHADANG, J.

DATED:- 6th JULY, 2015

JUDGMENT:

Rule. Rule made returnable forthwith. The learned Additional Public Prosecutor waives service for the respondent nos. 1 and 2 and Shri Shirodkar, learned Counsel waives service for the respondent nos. 3 and 4.

2. By this application, the petitioners who are the accused in Criminal Case No. 227/2011/D, pending on the file of the learned Judicial Magistrate First Class, Panaji are seeking quashing of the charge sheet.

3. It appears from the complaint filed by the third respondent-Prajyoti Naik that there was an incident that had occurred on 28.09.2010 at about 19:15 hours, in which the petitioner-Abhijeet Naik Shirodkar had assaulted, the father of the complainant, Shabi

Naik-respondent no. 4. On the basis of the said complaint, the investigation was taken up and charge sheet was filed against the petitioners for the offence punishable under Section 326 of the Indian Penal Code.

4. It is submitted on behalf of the petitioners that they are neighbours. Since, after the incident, there is complete harmony between them and their relations are cordial. It is submitted that in such circumstances, the prosecution case be quashed. The complainant-respondent no. 3 and respondent no. 4 have filed separate affidavits. It is stated that the parties are staying peacefully and in harmony. Shri Shirodkar, learned Counsel for the respondent nos. 3 and 4 has submitted that the respondent nos. 3 and 4 have no objection for quashing the charge sheet.

5. The Hon'ble Supreme Court in the case of, **Gian Singh Vs. State of Punjab and Another**, reported in **(2012) 10 SCC 303**, has, *inter alia*, held that the powers exercised under Section 482 of Cr.P.C. are separate and distinct than the powers under Section 320 of Cr.P.C. In other words, the fact that the offence is non-compoundable

by itself may not preclude this Court in the given case from quashing the same. It has been held that the inherent powers in this regard are wide enough with no statutory limitations and such powers can normally be exercised (i) to secure the ends of justice, or (ii) to prevent abuse of process of any Court. The Apex Court then proceeded to observe that while exercising such power the High Court must have due regard to the nature and gravity of the crime. There is no public law element involved in this case.

6. The learned Counsel for the petitioners has submitted that the petitioners are willing to deposit an amount of Rs.5,000/- with Goa State Legal Services Authority, as a matter of remorse.

7. The learned Public Prosecutor submits that appropriate orders may be passed.

8. Having regard to the circumstances, as mentioned above and on hearing the learned Counsel for the parties, the following order is passed.

(a) The petition is allowed, subject to the petitioners depositing an amount of Rs.5,000/- before the Goa State Legal Services Authority.

(b) Rule is made absolute in terms of the prayer clause (a).

C. V. BHADANG, J.

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