

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NOS. 157 and 158 OF 2015

CRIMINAL WRIT PETITION NO. 157 OF 2015

1. Hussain Siddiqui,
20 years, Service,
r/o Flat No. B-9,
Madhuban Complex,
Tambdi Mati, St-Inez,
Panaji – Goa.
 2. Abhishek Katoch,
18 years, Student,
r/o Flat No. 1799/2,
Smita Shankar Borkar
Building, Porvorim, Goa.
- ... Petitioners

Versus

1. State of Goa,
Through the Public
Prosecutor, High Court
Panaji, Goa.
 2. The Police Inspector,
Panaji Police Station,
Dist-North Goa, Goa.
 3. Vasco Erlick Ferreira,
R/o H. No. E-208,
Cunha Riveira Road,
Near Municipal Garden,
Panaji – Goa.
- ... Respondents

CRIMINAL WRIT PETITION NO. 158 OF 2015

1. Sheryal Khan,
18 years, Student,
r/o House No. 646,
Cardozowado, Taligao,
Panaji – Goa.
2. Tyrone Sameer D'Costa,
18 years, Student,
r/o Flat No. 13/177/4,
Eden Rock Bldg., Opp. St.
Inez Church,
Panaji, Goa.
3. Abdul Mannan Sajil
Shaikh, 18 years,
Student, 1st Floor, Amina
Apts., Opp. Hotel
Manoshanti,
Panaji, Goa.

... Petitioners

Versus

1. State of Goa,
Through the Public
Prosecutor, High Court
Panaji, Goa.
2. The Police Inspector,
Panaji Police Station,
Dist-North Goa, Goa.
3. Vasco Erlick Ferreira,
Major of age, businessman,
R/o H. No. E-208,
Cunha Riveira Road,
Near Municipal Garden,
Panaji – Goa.

... Respondents

Mr. Vibhav R. Amonkar, Advocate for the Petitioners.

Mrs. Milena Pinto, Additional Public Prosecutor for the Respondent Nos. 1 and 2.

Mr. Rui Gomes Pereira, Advocate for the Respondent No. 3.

**Coram : F.M. REIS &
C.V. BHADANG JJ.**

Reserved on : 7th December, 2015.

Pronounced on : 10th December, 2015.

JUDGMENT: (Per C.V. Bhadang, J.)

Rule. Rule made returnable forthwith. The learned Additional Public Prosecutor waives service for the respondent nos. 1 and 2 and Mr. Pereira, learned Counsel waives service for the respondent no. 3. Heard finally, by consent of the parties.

2. By this petition, the petitioners are seeking quashing of Special Criminal Case No. 13/2015, before the Children's Court, Panaji, Goa and Criminal Case No. 18/JJB/2015, before the Juvenile Justice Board, Mercas, Goa. Both these cases arise out of an incident forming part of the same transaction and as such, they are being disposed of by this common judgment.

3. On the basis of the complaint lodged by the respondent no. 3, who is the father of the victim girl, aged 14 years, it is alleged that the accused persons extorted about Rs.30,000/- to Rs.50,000/- from the victim girl, that they had videographed the accused-Sheryal Khan kissing the victim girl and threatening her of showing the footage to her father.

4. After investigation, in all five boys, were found to have indulged in the act of extortion, out of which, three were juveniles (petitioners in Criminal Writ Petition No. 158/2015). Accordingly, they were proceeded against, before the Juvenile Justice Board, Merces, while two others (petitioners in Criminal Writ Petition No. 157/2015) are facing prosecution before the Children's Court, Panaji.

5. It appears that, the parties have since arrived at a compromise/settlement, as a result of which, the present petitions have been filed. The respondent no. 3, who is the complainant/aggrieved person, has filed an affidavit stating that the matter has been amicably settled in the interest of the

petitioners, as also his minor daughter. He has thus, recorded no objection for quashing of the proceedings.

6. We have heard the learned Counsel for the parties and the learned Additional Public Prosecutor for the State.

7. The petitioners are prosecuted for the offence punishable under Section 8 of the Goa Children's Act, Section 66 of the Information Technology Act and Section 384 read with Section 34 of the Indian Penal Code. Apart from the aspect of an amicable settlement, it is submitted that no video footage, as claimed has been found or recovered during the course of investigation and as such, the offence under Section 66 of the Information Technology Act, would not arise. It is submitted that the petitioners, out of which, three are juveniles, as also the victim, who is a minor are taking education and thus, it would be in the best interest of the juveniles, the victim girl and the petitioners, facing prosecution before the Children's Court, that the proceedings are quashed in terms of settlement arrived at between the parties.

Reliance is placed on the decision of the Hon'ble Supreme Court in the case of **Yogendra Yadav and others Vs. State of Jharkhand and another**, reported in **(2014) 9 SCC 653**.

8. The learned Additional Public Prosecutor has submitted that appropriate order may be passed in the case.

9. We have given our anxious consideration to the circumstances and the submissions made. The Hon'ble Supreme Court in the case of **Yogendra Yadav** (supra) has *inter-alia* held that, except the offences, which are of grave nature, such as rape, murder, other offences can be allowed to be compounded/quashed, in view of amicable settlement between the parties. It is further held that prosecution involving such offences, which are personal to the parties, not involving public law element can be put to an end to, as continuation of prosecution in such cases would be lame and an exercise in futility. The consideration of restoration of peace and better relation between the parties also arise in such cases. The Hon'ble

Apex Court in turn has referred to its earlier decision in the case of **Gian Singh Vs. State of Punjab**, reported in **(2012) 10 SCC 303**.

10. We find that three of the petitioners are juveniles, while the others are said to be aged about 18 to 20 years. All the petitioners are taking education. Insofar as the proceedings before the Juvenile Justice Board are concerned, reformatory/rehabilitative aspect takes precedence over punitive one. Considering the overall circumstances, the nature of the offences, which cannot be said to be either heinous or involving a public law element and the settlement being in the interest of the parties, so as to restore peace, this Court can justifiably exercise jurisdiction to quash the proceedings.

11. In such circumstances, Rule is made absolute, in both the petitions, in terms of prayer clause (a).

C.V. BHADANG, J.

F.M. REIS, J.