

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4228 OF 2015

Ms Chitvan Gopal Malhotra	... Petitioner
Vs.	
State of Maharashtra and others	... Respondents

Mr. Karim Khan Pathan for Petitioner.
Mrs. M. M. Deshmukh, APP for Respondents-State.
Mr. Ram Mani Upadhyay for Respondent No.3.

**CORAM : RANJIT MORE &
R. G. KETKAR, JJ.**

DATE : 23RD OCTOBER, 2015.

P.C.:

Heard learned Counsel appearing for the respective parties.

2. The petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Criminal Procedure Code, 1973 for quashing and setting aside the FIR bearing C.R. No.380 of 2015 registered with Oshiwara Police Station. The said FIR was registered against the respondent No.3 at the instance of the petitioner for the offences punishable under Sections 354-A, 509, 307, 323, 506 and 406 of the Indian Penal Code, 1860 (for short “the IPC”).

3. Pending investigation, it seems that parties settled their disputes amicably and therefore, the complainant, as stated above, has approached this

Court for quashing the subject F.I.R. Petitioner - original complainant is personally present before the Court. On specific query, she stated that the dispute is settled amicably and she has no objection if the subject FIR is quashed.

4. It is true that the subject FIR is registered under Section 307 of the IPC, which is indeed heinous and serious offence. The Apex Court, in paragraph 28 of the judgment in the case of *Narinder Singh and others vs. State of Punjab and another*, **2014 AIR (SCW) 2065**, observed that only because FIR/Charge-sheet incorporates the provision of Section 307 IPC would not, by itself, be a ground to reject the Petition under Section 482 of the IPC and refuse to accept the settlement between the parties. The Apex Court further observed that while taking a call in such cases, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 of the IPC, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties.

5. In the light of the above observations, we have perused the FIR as well as medical certificate. The report discloses that the respondent No.3-accused was driving the car and the petitioner was sitting besides him. It is

alleged that there was altercation between them. Resultantly, respondent No.3 pushed away the petitioner, who fell out of the car. Medical certificate discloses that the injury sustained by the petitioner is of simple nature. In these circumstances, we are of the considered view that the FIR does not disclose the commission of offence under Section 307 of the IPC.

6. Accordingly, the FIR bearing C.R. No.380 of 2015 registered with Oshiwara Police Station is quashed and set-aside subject to payment of costs of Rs.25,000/- by the respondent No.3 to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. Respondent No.3 shall pay the said cost and produce receipt thereof on the file of this Court within a period of two weeks from today, failing which, the Petition shall stand dismissed automatically without further reference to the Court.

7. It is reported that in pursuance of the subject FIR, respondent No.3 was arrested and at present, he is in police custody. Since the subject FIR is quashed, we direct that the respondent No.3 – Praveen Kumar be released forthwith, if not required in any other case. Subject to above, the Criminal Writ Petition stands disposed of.

8. All the concerned to act on the authenticated copy of this order.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]