

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1381 OF 2016

Mrs. Jaya Ramesh Giri & Ors.	.. Petitioners
V/s.	
The State of Maharashtra & Anr.	.. Respondents

**WITH
CRIMINAL WRIT PETITION NO.1382 OF 2016**

Mrs. Kalpana Indranarayan Jha & Anr.	.. Petitioners
V/s.	
The State of Maharashtra & Anr.	.. Respondents

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Mr. Sharad Rai, Advocate for the Petitioner.
Mrs. S.D. Shinde, APP for the Respondent – State.
Mr. A.R. Maurya, Advocate for Respondent No.2.

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**CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.**

DATED : JULY 5, 2016.

JUDGMENT (Per PRAKASH D. NAIK, J.) :

Rule. Rule is made returnable forthwith.

2 Learned APP waives service for Respondent No. 2 –
State.

3 The petitioners have invoked writ jurisdiction of this Court under Article 226 of the Constitution of India and inherent powers under Section 482 of the Code of Criminal Procedure. The issues involved in both the petitions are interconnected with each other and hence both these petitions are disposed of by common order.

4 In criminal writ petition no.1381 of 2016, the petitioners seeks to challenge the First Information Report (for short "FIR") dated 20th March, 2016 registered with Tulinj Police Station, Nalasopara, district Palghar vide C.R.No.I-163 of 2016 for the offences punishable under Sections 452, 323, 504 read with Section 34 of the Indian Penal Code (for short "IPC"). The petitioners are accused in the said FIR which is lodged at the instance of second respondent.

5 Brief allegations made in C.R.No.I-163 of 2016 are as follows:

(a) Complainant is residing at Room No.12 Ostwal Nagari Road, Nalasopara (East), Taluka Vasai, District - Palghar. She is residing at the said address since last ten years along with her husband and son. On 19th March, 2016,

there was a quarrel between the complainant and her neighbour. At about 7.00 p.m. Smt. Jaya Ramesh Giri started abusing the complainant. At that time, other accused namely Ganesh Jha, Sunil Jha and Deepak Mishra entered into her residential premises and assaulted the complainant's son by fist blows. In this scuffle, the complainant and her son lost their jewellery.

- (b) Complainant thereafter informed the aforesaid incident to her husband after he returned home and, thereafter, FIR was lodged as stated hereinabove on 20th March, 2016 and offence was registered vide C.R.No. I-163 of 2016.

6 Petitioners in Writ Petition No.1382 of 2016 have challenged the FIR dated 21st March, 2016 registered with Tulinj Police Station vide C.R.No.I-167 of 2016 for the offences punishable under Sections 323, 324 read with Section 34 of the IPC. Petitioners were impleaded as accused in the said FIR which was registered at the instance of second respondent in the said petition.

7 The brief facts as alleged in the FIR bearing C.R.No. I-167 of 2016 are as follows:

- (a) The complainant is the resident of Jai Ambe Welfare Society, Ostwal Nagari Road, Nalasopara (East), Taluka - Vasai, District - Palghar. Complainant is residing at the said premises since last ten years along with his wife and children.
- (b) On 19th March, 2016, when complainant returned home, he was noticed that a quarrel was going on between his brother-in-law Sunil Jha and neighbour Raghvendra Jha. Complainant convinced his brother-in-law to stop the quarrel by stating that the opponent is a young boy and there is no point in discussing with him. At that time, accused Raghvendra challenged him with abusive words and hence the complainant slapped him.
- (c) During the aforesaid quarrel the mother of accused Raghvendra intervened. She brought the chilly powder and threw it on the person of the complainant. Accused Raghvendra then assaulted the complainant by fist blows and by iron rod. Complainant sustained injury to his head. He was treated in the hospital. Thereafter, FIR was registered with Tulinj police station vide C.R.No. I-167 of 2016.

8 Learned counsel appearing for the petitioners and second respondent in both the petitions have submitted that the cross complaints are registered by the parties against each other which are the subject matter of these petitions before this Court. It is submitted that the parties are residing in the same vicinity and with a view to maintain harmonious relationship they have arrived at amicable settlement. It is submitted that in view of the settlement between the parties, they have approached this Court for quashing the proceedings initiated against each other.

9 Second respondent/complainant in C.R.No. I - 163 of 2016 which is the subject matter of Criminal Writ Petition No.1381 of 2016 have tendered an affidavit before this Court. She has stated that due to intervention of senior members of the vicinity, it was decided to put an end to the differences so as to maintain peace and harmony in the society and also to ensure that spirit of togetherness is maintained. Second respondent who is the complainant in C.R.No. I-163 of 2016 is an accused in C.R.No.I-167 of 2016, whereas, the second respondent/complainant in C.R.No. I-167 of 2016 is an accused in C.R.No.I-163 of 2016. Similarly, second respondent who is the complainant in C.R.No.I-167 of 2016 have also tendered affidavit stating that

the parties have settled the disputes due to intervention of senior members of the vicinity with a view to maintain peace and harmony in the society. Both the complainants have consented for quashing the respective FIR's lodged against the respective accused persons.

10 We have perused the FIR's and the affidavits tendered by respective complainants. The dispute had arisen out of the quarrel which had ensued between two neighbours. It is of private nature having no access of society at large. We have noted that the parties are residing in the same vicinity and intend to maintain harmonious relationship. We are, therefore, inclined to allow the aforesaid petitions and quash the FIR's under challenge in these petitions. Reliance can be placed upon the decision of the Apex Court in case of ***Gian Singh V/s. State of Punjab & Anr.***¹, wherein it is observed that the High Court may entertain the petition for quashing in the event of settlement of disputes which are of private nature. We are, therefore, satisfied that this is a fit case to exercise the power of quashing.

11 We, therefore, pass the following orders.

1(2012) 10 - SCC 303

:: ORDER ::

- (i) Criminal Writ Petition No.1381 of 2016 is allowed and the First Information Report registered with Tulinj police station vide C.R.No.I-163 of 2016 for the offences punishable under Sections 452, 323, 504 read with Section 34 of the Indian Penal Code is quashed and set aside.
- (ii) Criminal Writ Petition No.1382 of 2016 is allowed and the First Information Report registered with Tulinj police station vide C.R.No.I-167 of 2016 for the offences punishable under Sections 323, 324 read with Section 34 of the Indian Penal Code is quashed and set aside.
- (iii) Parties to act upon an authenticated copy of this order.

(PRAKASH D. NAIK, J.) (NARESH H. PATIL, J.)