

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
 CRIMINAL WRIT PETITION NO.2687 OF 2016

...

Mr.Sarfaraz Faiyaz Ahmed Khan and ors.	...Petitioners
v/s.	
Mr.Sajid Akhtar Shaikh & ors.	...Respondents
...	
Mr.Mubin Solkar i/b Yusuf S.Mithi for the Petitioners.	
Ms.Nikita Ajwani for the Respondent No.1.	
Dr.F.R.Shaikh, APP for the State-Respondent No.2.	
...	

CORAM : A.S.OKA &
A.A. SAYED, JJ.

DATED : 19 AUGUST 2016

P.C.:

Though the matter was scheduled to be listed today at 12.30 p.m., it was inadvertently not listed. Therefore, papers are allowed to be produced. Hence, the Petition is taken on Board.

2. Time granted to amend the prayer clause (a) is extended by a period of two weeks from the date on which this order is uploaded.

3. The prayer in this Writ Petition under Article 226 of the Constitution of India is for quashing and setting aside the First Information Report being C.R.No.52/2015 registered by Agripada Police Station, Mumbai at the instance of the first Respondent. There is also a prayer for quashing the charge sheet filed by the Police on investigation. The prayer for quashing is

on the basis of amicable settlement between the Petitioners and the first Respondent.

4. We have perused the charge sheet. We have perused the original certificates forming part of the charge sheet. According to us, no case for applying section 326 of the Indian Penal Code is made out.

5. Perusal of the charge sheet shows that the first informant was travelling by a car on 3 March 2015. At about 10 p.m., while the car was coming down from Byculla bridge, a two wheeler in front of the car suddenly applied the breaks. Therefore, the car was stopped by urgent application of breaks. As a result, the motor cycle which was behind the car gave a dash to the car. It is alleged that the persons who were on the motor cycle started assaulting one Shehroz, who was driving the car.

6. In the Affidavit of the first Respondent it is stated that the Petitioners and the first Respondent are in the age group of 25 to 29 and on the spur of moment the incident took place. Thereafter, the elders from both families intervened and brought about the settlement. The Affidavit of Shehroz is also brought on record, which reiterates the settlement.

7. The Petitioners, on their own, have paid a donation of Rs.25,000/- to Human Care & Charitable Trust. A receipt dated 18 August 2016 is produced for perusal of the Court.

8. Perusal of the averments made in the Affidavits filed on record show that there is a settlement between the Petitioners, the first informant and injured victim. It cannot be said that an offence is against the society at large. Therefore, following the law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab**¹ a prayer for quashing deserves to be accepted.

9. Accordingly, we pass the following order:

Rule is made absolute in terms of prayer clause (a), which reads thus:

“(a) To quash the FIR being C.R.No.52/2015 registered by Agripada Police Station on 04-03-2015 on the complaint of the 1st Respondent namely Sajid Akhtar Shaikh for offences punishable u/s 323,324,326,504 r/w 34 of I.P.C. as well as CC No.179/PW/16 pending before the Metropolitan Magistrate, 20th Court at Sewri, Mumbai and all proceedings in connection therewith.”

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303