

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.648 OF 2017

Vinod s/o.Hanumantrao Suryawanshi,
Age: 33 Years, Occ: Service,
R/o. Deolai Chowk, Behind Prashant Hotel,
Sai Shakti Apartment, Satara Area,
Aurangabad, Dist. Aurangabad. **PETITIONER**

VERSUS

1. The State of Maharashtra,
Through in charge Officer,
Police Station Satara, Aurangabad,
Dist. Aurangabad.
2. Anita Suresh Borse,
Age- 38 years, Occ-House Wife,
R/o. Deolai Chowk, Behind Prashant Hotel,
Sai Shakti Apartment, Satara Area,
Aurangabad, Dist. Aurangabad.

RESPONDENTS

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Mr.D.S.Mali, Advocate for the petitioner
Mr.M.M.Nerlikar, APP for the Respondent/State
Mr.N.N.Desale, Advocate for respondent no.2.

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**CORAM: S.S.SHINDE &
MANGESH S.PATIL, JJ.**

Reserved on : 05.12.2017
Pronounced on : 11.12.2017

JUDGMENT: (Per S.S.Shinde, J.):

1. Heard. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. This Petition under Article 226 of the Constitution of India read with Section 482 of the Criminal Procedure Code is filed praying therein to quash and set aside the First Information Report vide Crime No.135/2017 registered with Satara Police Station, Aurangabad, for the offence punishable under Sections 354, 323, 504, 506 r/w. 34 of the Indian Penal Code.

3. Pursuant to the notices issued to the respondents, respondent no.2 has filed affidavit. It is stated in the said affidavit that, the FIR has been lodged against the petitioner including other 30 persons only due to misconception or misunderstanding between the parties. Respondent no.2 and the

petitioner are neighbourers as well as they have adjacent houses and due to some temperamental disturbances between the parties, the FIR has been lodged. Upon careful perusal of the affidavit, it appears that, the petitioner and other accused and also respondent no.2 have agreed to live happily and peacefully in future, and further the petitioner has given assurance that, henceforth he will not cause any disturbance or annoyance to respondent no.2, and her family or other adjoining neighbourers residing in the vicinity, it is prayed that the FIR may be quashed.

Respondent no.2 is present in the Court. On specific query to her, she stated that, it is her voluntary act, without any coercion to file such affidavit stating therein that, in view of the amicable settlement, she does not want to proceed further with the allegations in the FIR.

Petitioner is also present in the Court. He assured this Court that, henceforth he will not cause any disturbance or annoyance to respondent no.2 and her family and adjoining neighbourers.

4. In that view of the matter, keeping in view the exposition of law by the Supreme Court in the case of ***Gian Singh Vs. State of Punjab and another***¹ that, the FIR or criminal proceedings can be quashed by invoking inherent powers relying upon the amicable settlement for two reasons; *firstly* to secure ends of justice, and *secondly* to prevent abuse of process of law/Court. Since respondent no.2 has stated in her affidavit that, the FIR has been lodged only due to misconception or misunderstanding between the parties, it is clear that, respondent no.2 is not going to support the allegations in the FIR, and therefore, the further investigation

1. 2012 (10) SC Page 303;

will be exercise in futility and wastage of time. Respondent no.2 is not going to support the allegations in the FIR, and therefore, the chances of conviction of the petitioner would be bleak.

5. In that view of the matter, the First Information Report vide Crime No.135/2017 registered with Satara Police Station, Aurangabad, for the offence punishable under Sections 354, 323, 504, 506 r/w.34 of the Indian Penal Code stands quashed and set aside. The application is allowed in terms of prayer clause 'B'.

6. Rule is made absolute on above terms. Writ Petition stands disposed of accordingly.

[MANGESH S.PATIL]
JUDGE

[S.S.SHINDE]
JUDGE