

IN THE HIGH COURT OF BOMBAY AT GOA.**Criminal Writ Petition No.72/2017**

1. Shri Sanket Prashant Nevrekar,
27 years of age,
s/o Prashant Nevrekar,
r/o H.No.002, Devki Niwas,
Tonca, Caranzalem,
Tiswadi - Goa.
2. Shri Gaurav Krishna Naik,
27 years of age,
Son of Krishna Naik,
r/o H. No.396, Near Real Factory,
Tonca, Caranzalem,
Tiswadi – Goa.

Petitioners**V/S**

1. State,
Through Investigating Officer,
Ponda Police Station, Ponda - Goa.
2. Shri Rajesh Ghadi,
Major of age,
s/o Ladhu Ghadi, r/o H.No.188/2,
MES Qrs., Bambolim – Goa.
C/o GEC Boys Hostel-2,
GEC, Farmagudi, Ponda Goa.
3. Shri Ahraj Mulla,
Major of age,
S/o Amin Mulla,
r/o H. No.S-3,
Kurtarkar Commercial Arcaade,
Kaziwada, Ponda – Goa.

Respondents

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Shri Ashwin D.Bhobe, Advocate for the petitioners.
Shri Dattaprasad Lawande, AG with Shri Pravin Phaldessai,
Addl.Public Prosecutor for respondent no.1.
Respondent nos.2 and 3 appear in person.

**CORAM: F.M.REIS &
PRITHVIRAJ K.CHAVAN, JJ.
DATED : 14.06.2017.**

ORAL JUDGMENT (PER PRITHVIRAJ K.CHAVAN, J.):

1. Heard Shri Ashwin Bhobe, learned counsel appearing for the petitioners, Shri Dattaprasad Lawande, learned AG appearing for the respondent no.1 and the respondents nos. 2 and 3 in person.

2. Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the petitioner and learned Advocate General appearing for the respondent no.1. The learned Addl. Public Prosecutor waives notice on behalf of the respondent no.1.

3. The petitioners have invoked jurisdiction of this Court under Articles 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing the Criminal Case No.150/S/IPC/2015/B on the file of the Judicial Magistrate First Class, Ponda Goa.

4. The facts, in brief, may be stated as follows:

On 7.9.2015 at 17.30 hours when the respondents no.2 and 3 along with some of their friends, who are students of Don Bosco College of Engineering Fatorda, Prajyot Bakhale were sitting in the Goa College of Engineering college Campus

Farmagudi in front of main building, the petitioners came with their friends who abused and threatened the respondents no.2 and 3 with dire consequences for an issue of organising tour of G.E.C. Students. The petitioner no.1 alleged to have pushed the respondent no.2 on the ground and fled from the spot. On the same day at about 19.30 hours the petitioners again came in a Nissan Micra Car bearing No.GA-08-9651 when the respondents no.2 and 3 were proceeding towards their college from the backside gate, the petitioners alighted from the car and wrongfully restrained the respondents, who were trying to enter into the college campus. It is alleged that the petitioners started assaulting the respondents no.2 and 3 with slaps due to which the respondent no.2 fell on the ground. The petitioners also alleged to have threatened the respondents with dire consequences.

5. On a complaint lodged by the respondent no.2 on 8.9.2015, the Investigating Agency held investigation and as a result of same laid a charge-sheet bearing No.248/2015 against the petitioners in the Court of Judicial Magistrate First Class, under Sections 323, 341, 504, 506 (Part II) read with Section 34 of the Indian Penal Code.

6. The petitioners moved an application before the learned

Judicial Magistrate First Class on 29.9.2016 contending, *inter alia*, that the respondents no.2 and 3 are friends of the petitioners and that lodging of the complaint by the respondents no.2 and 3 was on account of misunderstanding. They have reconciled their differences and were friends. The respondents no.2 and 3, in their application dated 29.9.2016 have categorically stated that there was no any threat of dire consequences given to the respondents no.2 and 3 by the petitioners.

7. Vide order dated 6.2.2017, the learned Judicial Magistrate First Class, was pleased to consider the application dated 29.9.2016 and granted permission for compounding the offence punishable under Sections 323, 341 and 504 read with Section 34 of the Indian Penal Code and refused permission for the offence punishable under Section 506 (Part II) of the Indian Penal Code, being non-compoundable. Hence, this petition.

8. We have perused the petition and relevant record from which it appears that the petitioners moved an application before the learned Judicial Magistrate First Class contending, *inter alia*, that the respondents no.2 and 3 are friends of the petitioners and that lodging of the complaint by the respondents no.2 and 3 was on account of misunderstanding. They have reconciled their differences and were friends. The respondent no.2 filed affidavit

for himself and on behalf of respondent no.3 before this Court and submits that they have amicably settled the matter.

9. The learned Advocate General has no objection to allow the petition, in view of the nature of the offence and in the light of the fact that amicable settlement has been arrived at between the parties supported by affidavit sworn in by the respondent no.2 for himself and on behalf of the respondent no.3. The parties were present before us.

10. Taking note of the manner in which the incident occurred, as reflected in the petition, affidavit which is confirmed by the learned Advocate General and taking note that the parties have amicably settled the matter in between them, we find that the offences committed by the petitioners may not be so serious. The Hon'ble Supreme Court, in case of Gian Singh Vs. State of Punjab and another [2012 (10) SCC 303], discussed the scope of the Section 482 of the Code, in the sense that in which cases inherent powers under Section 482 of the Code can be exercised where the offender and victim have settled their dispute. This aspect is no more res integra and, therefore, in view of the foregoing discussion as well as in view of the facts and circumstances, we are inclined to allow the petition and consequently quash and set aside the Criminal Case

No.150/S/IPC/2015/B pending before the Judicial Magistrate First Class, Ponda.

11. Rule is made absolute in the above terms. The petition stands disposed of accordingly.

PRITHVIRAJ K.CHAVAN, J.

F.M.REIS, J.

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