

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.112 OF 2018

Shri Adil Fatarpekar,
Son of Shri Narayan Fatarpekar
53 years of age,
Indian National,
R/o Skylark Apts.,
Block A1, Flat No.S3,
Pundalik Nagar,
Porvorim Goa.

... Petitioner

Versus

1. State

Through Panaji Police Station,
Panaji Goa.

2. Smt. Vandana Fatarpekar,

wife of Shri Prashant Fatarpekar,
major of age,
Indian National,
R/o H.No. E-1/67,
Near Vithoba Temple,
Mala, Panaji Goa.

.... Respondents

Ms. Maria Correia, Advocate for the Petitioner.

Mr. P. Faldessai, Addl. Public Prosecutor for Respondent No.1.

Mr. Vibert Noronha, Advocate for Respondent No.2.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 23 August 2018.

Oral Judgment (Per N. M. Jamdar, J):

Rule. Rule made returnable forthwith. Respondents waive service.

2. This petition is filed for quashing the charge-sheet No.170/2016 pending before the Judicial Magistrate First Class 'B' Court at Panaji, filed by the Respondent No.2 against the Petitioner.

3. The Petitioner is seeking to quash the proceedings on the ground that the Petitioner and the Complainant, his sister in law, have compromised their all disputes pending in various Courts.

4. The Respondent No.2, the sister in law of the Petitioner had filed the proceedings under the Protection of Women from Domestic Violence Act, 2005 against the Petitioner. The Respondent No.2 filed a complaint on 31 March 2016 that the Petitioner abused and threatened her. It was also her contention that the Petitioner assaulted her. On the basis of the complaint, the investigation was

carried out and the charge sheet was filed.

5. On the contention of the Petitioner that the parties have settled their disputes, notice was issued to the Respondent. The learned counsel appearing on behalf of Respondent No.2 has filed an affidavit. In the affidavit the Respondent No.2 has stated as under :

“3. I say that I have filed a complaint against the Petitioner with the Respondent No.1. The Respondent No.1 upon carrying out investigation in the matter filed a Chargesheet bearing No.170/16 in the Court of Judicial Magistrate First Class at Panaji ('B' Court).

4. I say that the Chargesheet was registered as Criminal Case No.244/16/D in the Court of Judicial Magistrate First Class at Panaji under Sections 324, 354, 504 and 506 of IPC.

5. I say that in pursuance to the terms of settlement dated 10/12/2016 entered into between the parties in case No. DVA/10/2016/C, which was disposed of by the Hon'ble Court of Judicial Magistrate First Class at Panaji, the parties i.e. the Petitioner, the present Respondent and her husband have decided to amicably withdraw and compound all the complaints filed against each other and seek to compound the present offence.

6. In light of above this Respondent out of free will and without any force, coercion or threat has no objection to compound the offences as registered in the present petition and in such circumstances necessary order may be passed as deemed fit and proper by this Hon'ble

Court.”

6. We have heard Ms. Maria Correia, learned counsel for the Petitioner, Mr. P. Faldessai, the learned Addl. Public Prosecutor for Respondent No.1 and Mr. Vibert Noronha, learned counsel for Respondent No.2.

7. Admittedly, the Petitioner and Respondent No.2 are related and there appears to be property disputes pending between them. The learned counsel for the parties state that this property dispute has led to various other misunderstanding and consequently, the present complaint has been filed. The learned counsel for the Petitioner and Respondent No.2 state that in view of the fact that the Petitioner and Respondent No.2 have decided to compromise their all disputes no purpose will be served in keeping the prosecution pending and in view of the stand taken by the Respondent No.2, there is no chance of any conviction. The learned Additional Government Advocate states that there appears to be private dispute over the property pending between the parties. On going through the events of the complaint the offence cannot be considered as heinous. The Apex Court in the case of *Narinder Singh and others Vs State of Punjab*

*and another*¹ and *Gian Singh Vs State of Punjab and another*² has laid down the parameters when the High Court can exercise its inherent powers to quash the proceedings to meet the ends of justice. We are of the opinion that the present case falls within these parameters. The assault alleged to be carried out by the Petitioner does not appear to be grievous in nature and not taken place in the public place and neither it has disturbed the public peace as such. There is admittedly a civil dispute pending and parties are related. Further more the parties are attempting an overall settlement. In these circumstances, we are of the opinion that in view of the peculiar facts and circumstances of this case, the petition deserves to be allowed and the Criminal Case under charge-sheet No. 170/2016 required to be quashed and set aside.

8. Accordingly, Rule is made absolute in terms of the prayer clause (a). No order as to costs.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.

1 (2014) 6 SCC 466

2 (2012) 10 SCC 303