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

CRIMINAL WRIT PETITION NO.2052 OF 2018

Suhas Pandharinath Malgunde and Ors. ...Petitioners
Versus
State of Maharashtra and Anr. ...Respondents

***WITH
CRIMINAL WRIT PETITION NO.2053 OF 2018***

Santosh Dagdu Malgunde and Ors. ...Petitioners
Versus
State of Maharashtra and Anr. ...Respondents

Mr.P.K.Shahane, for the Petitioners in Criminal Writ Petition No.2052 of 2018.

Mr.Milind Deshmukh, for the Petitioners in Criminal Writ Petition No.2053 of 2018.

Mr.R.M.Pethe, A.P.P for the Respondent-State in Criminal Writ Petition No.2052 of 2018.

Mr.Deepak Thakare, P.P. a/w Mr.K.V.Saste, A.P.P for the Respondent-State in Criminal Writ Petition No.2053 of 2018.

P.C – M.N.Ingale, Ranjangaon M.I.D.C. Police Station, Pune.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 27th JUNE, 2018

P.C. :

1. The above Writ Petitions are filed for quashing of the FIR being C. R. No.61 of 2018 registered with the Ranjangaon M.I.D.C. Police Station, Taluka - Shirur, District – Pune, for the offences punishable under Sections 307, 323, 109, 354, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act. (The subject matter of Writ Petition No.2053 of 2018) and FIR being C. R. No.59 of 2018 registered with the Ranjangaon M.I.D.C. Police Station, Taluka - Shirur, District – Pune, for the offences punishable under Sections 307, 325, 109, 354, 427, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act. (The subject matter of Writ Petition No.2052 of 2018). The said FIRs are cross FIRs arising out of an incident which took place on 3rd April, 2018, within the jurisdiction of Ranjangaon M.I.D.C. Police Station. The accused and the First Informant are the residents of village – Dhoksangvi, Taluka - Shirur, District – Pune and the incident which took place on 3rd April, 2018, has its origins in some *inter se* dispute, between the parties.

2. It is not necessary to dilate further on facts as the parties have amicably resolved their dispute. The First Informant in FIR being C. R. No.61 of 2018 i.e. Bayadabai Pandharinath Malgunde is not personally present in Court, her husband - Pandharinath Malgunde, who was injured, in the assault is personally present in Court. He has filed an affidavit bearing today's date i.e. 27th June, 2018. The First Informant in FIR being C. R. No.59 of 2018 i.e. Santosh Malgunde has also filed his affidavit. The said affidavits are identical to the extent of the no objection mentioned therein to the quashing of the respective FIRs, which is in para 3 of the said affidavits. In the context of the reliefs sought in the above Writ Petitions, paragraph 3 of the affidavit of Pandharinath Malgunde is reproduced herein under:-

“3. I further state and submit that, some senior persons from village and respected personalities asked both the parties to sit together and get the issue resolved so that, there should not be any tense atmosphere either in the village or in the kinship of the Petitioners, as, both the parties are from one kinship and closely related to each other. Accordingly we, discussed about the issue and have settled dispute amicably. As the issues between us are

settled now, it will be in the interest of justice to quash the FIR pending against the Petitioners.”

3. Hence, the First Informant – Santosh and injured - Pandharinath in their affidavits have in no uncertain terms stated that they do not wish to proceed with the FIR in question. The background of the same has also been very elaborately stated in the affidavits filed by the First Informants. Though the First Informant i.e. Bayadabai Pandharinath Malgunde is not personally present in Court, as indicated above, her husband - Pandharinath Malgunde, who was assaulted is personally present in Court. He is identified by the learned counsel Mr.Shahane. He is also identified by his Aadhar Card bearing No.5564 6338 8322. When put in the box and queried, he states that he has been read over and explained the contents of his affidavit. He further states that he has understood the said contents and on account of the settlement between the parties, he and his wife who is the First Informant do not desire to proceed with the FIR in question

4. The First Informant - Santosh Malgunde is also personally

present in Court. He is identified by the learned counsel Mr.Deshmukh. He is also identified by his Aadhar Card bearing No.3345 9631 9608. When put in the box and queried, he states likewise. The other accused in each of the FIRs are also personally present in Court, however, it is not necessary to record their statements, in view of the statements recorded of the injured – Pandharinath and the First Informant – Santosh, who is also an injured.

5. As indicated above, the parties are residents of village – Dhoksangvi, Taluka - Shirur, District – Pune, and on account of intervention of friends and elders in the village that the parties have resolved their *inter se* dispute and now want to live in peace. Since, amongst the offences alleged is one punishable under Section 307 of the Indian Penal Code, we have perused the injury certificates. Insofar as, Pandharinath and Santosh are concerned, the said injury certificates reflect that Pandharinath had suffered two grievous injuries, whereas, Santosh had suffered a fracture of the forearm. From their personal appearance it can be seen that they have recovered from their injuries. In the context of the provisions of the Indian Penal Code which have been invoked in the respective FIRs against the parties, a useful reference can be made to the

judgment of the Apex Court in the matter of ***Narinder Singh & Ors. vs. State of Punjab & Anr.***¹ In the said case before the Apex Court, the offence alleged was also one under Section 307 of the Indian Penal Code. The said case also emanated from a village in Punjab and in which case the parties had arrived at a settlement. The Apex Court whilst laying down the parameters for exercise of powers under Section 482 of the Code of Criminal Procedure has held that the stage at which the application for quashment on account of the settlement is filed would be a relevant consideration. The Apex Court has also observed that if, there is a minimal chance of the witnesses coming forward to support the prosecution in view of the compromise between the parties, then the same would warrant the exercise of powers under Section 482 of Code of Criminal Procedure to quash the proceedings.

6. Applying the said yard stick laid down by the Apex Court, in our view, the instant case fits the bill inasmuch as, the present Writ Petitions have been filed when the investigation is in progress. The parties are also from one village and seemingly related to each other. The parties

1 2014 AIR SCW 2065

have also settled their dispute as exposited in the affidavits filed by the injured – Pandharinath and the First Informant in the second FIR – Santosh.

7. In our view, continuation of the FIR would be a futile exercise as no useful purpose would be served, by the police in continuing with the investigation. Hence, though the offence punishable under Section 307 of the Indian Penal Code is amongst other offences alleged against the respective parties, we are of the view, that the above Writ Petitions are required to be allowed and are accordingly allowed in terms of prayer clause (a).

8. The Petitioners in both the Writ Petitions to deposit costs totalling to Rs.5,000/- in each of the Writ Petitions i.e. total amount of Rs.10,000/- with the Ranjangaon Ganpati Devasthan, Ranjangaon, within six weeks from date. Receipts to be obtained and filed in the Registry.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)