

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

WRIT PETITION NO.3304 OF 2018

Mr Arbaz Imtiyaz Kazi	... Petitioner
v/s	
The State of Maharashtra and others	... Respondents

Ms Tahera A.R. Qureshi for Petitioner.
Mrs. A. S. Pai, APP for Respondents.
Ms Saima Ansari for Respondent No.2.

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Raghunath
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**CORAM: RANJIT MORE &
SMT BHARATI H. DANGRE, JJ.**

DATED : 19th SEPTEMBER 2018

P.C. :

1. Heard learned counsel for Petitioner, learned APP and learned counsel for Respondent No.2.

2. This Petition is for quashing and setting aside the FIR registered against the Petitioners at Kalwa Police Station being C.R. No.I-197 of 2018 for a offence punishable under sections 326, 506 of IPC. The learned counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, the

parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present Petition is filed for quashing the above FIR, by consent of Respondent No.2.

3. The Respondent No.2 – original complainant as well as the aggrieved person viz. Ashad Zakir Hussain Mullaji have filed separate affidavit dated 26th July 2018 thereby giving no objection to set aside the crime bearing C.R. No.I-197/2018. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the subject FIR initiated by her against the Petitioners.

4. We have carefully gone through the FIR on the basis of which offence has been registered against the present Applicants under sections 326, 504 of IPC. Perusal of the complaint would reveal a verbal altercation took place between the complainant on one hand and the accused persons and this altercation culminated into an assault with the aid of wooden bamboo which was lying at the spot. The said assault resulted into a minor fracture and therefore an

offence punishable under section 326 of IPC came to be registered.

5. Perusal of the FIR would reveal that the Applicants who are accused in the said FIR are young students pursuing their education and so is the case of the complainant. It is no doubt true that the injury was inflicted by the accused on the complainant and the parties have now settled their disputes. The question is whether we should permit the settlement and dispute by considering the said crime as crime against an individual or against the society at large. It would be appropriate to refer to the observations of the Hon'ble Apex Court in the case of *Narinder Singh and others Vs. State of Punjab and anr.* , reported in (2014) 6 SCC 466.

6. The two rival parties have amicably settled the disputes between themselves and buried the hatchet. Not only this, they say that since they are neighbours, they want to live like good neighbours and that was the reason for restoring friendly ties. In such a scenario, should the court give its imprimatur to such a settlement ? The answer depends on various incidental aspects which need serious discourse. The legislators have categorically recognised that those offences which are covered by the provisions of section 320 of

the Code are concededly those which not only do not fall within the category of heinous crimes but also which are personal between the parties. Therefore, this provision recognises where there is a compromise between the parties, the court is to act at the said compromise and quash the proceedings. However, even in respect of such offences not covered within the four corners of section 320 of the Code, the High Court is given power under section 482 of the Code to accept the compromise between the parties and quash the proceedings. The guiding factor is as to whether the ends of justice would justify such exercise of power, both the ultimate consequences may be acquittal or dismissal of indictment. This is so recognised in various judgments taken note of above.

7. Applying the aforesaid principle to the facts of the present case, we are of the considered view that since the Applicants and the complainant are young students and with a matured understanding they have arrived at a settlement, we do not feel that we should stand in their way of burying their differences and keep them entangled in legal battle. In such circumstances, we are inclined to accept the settlement between the parties and quash the subject FIR. We intend to allow Writ Petition in terms of prayer clause

(a) and quash and set aside the FIR being C.R. No.19 of 2017, registered at Kalwa Police Station. We order accordingly.

8. As the police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Petitioners with the cost of Rs.5,000/- (Rupees Five Thousand only) which shall be paid to **"Tata Memorial Hospital"**, an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, Petition shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as non-est.

9. Registry will then intimate the concerned Police Station that subject FIR shall not be treated to have been quashed and that Police shall proceed against the Petitioner in accordance with law.

(SMT BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)