

Sequeira

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

WRIT PETITION NO. 3692 OF 2018

Mr. Shivraj Chandrakant Pawar ... Petitioner
Vs.
The State of Maharashtra and another ... Respondents

Mr. Karan Rajput i/b Mr. Vaibhav Gaikwad, for the Petitioner.

Mr. H. J. Dedhia, APP for State.

Mr. Pankaj Deokar, for Respondent No. 2.

W.P.S.I – Varsha Dalimkar, Satara City Police Station, present.

***CORAM : S. S. SHINDE &
MRS. MRIDULA BHATKAR, JJ.***

Date : September 3, 2018.

P.C. :

Heard. Rule. Rule made returnable forthwith. By consent of the parties, taken up for final disposal.

2. This petition under section 226 of the Constitution of India read with section 482 of Code of Criminal Procedure is filed with following substantive prayer -

'a. That this Hon'ble Court may be pleased to issue an appropriate writ or order and / or direction in the nature of such a writ and be pleased to quash and set aside the FIR bearing No. 665 of 2018 lodged with Satara City Police Station, Satara.'

Pursuant to notices issued to the Respondents, Respondent No.2 has caused the appearance through Advocate. She is present in the Court. Learned Counsel appearing for Respondent No.2 has tendered affidavit across bar. Same is taken on record. Paragraph Nos.2 to 4 of said affidavit reads as under :-

- '2. *I say that aforesaid FIR has been lodged, amicable settlement arrived between the Petitioner and me. Accordingly, I have no objections for quashing of the whole FIR 665/2018 dated 21/7/2018 registered at Satara City Police Station, Satara.*
3. *I say that I have no any claims against the Petitioner and accused no.1 and I am withdrawing all allegations against the Petitioner and accused no.1 also contended in the said FIR.*
4. *I say that my own will requesting this Hon'ble Court to quash whole FIR as I am doing private service as a nurse and I belongs to poor family background. All responsibility of family is on me. I do not wish to continue the said FIR as continuation of FIR will ultimately disturbed my future life and family peace. I am happy by amicable settlement done in between me and Petitioner I say that after quashing of FIR there will be no any dispute between both parties and both parties can live happily in society according to their will and dignity.'*

The parties are identified by the respective counsels appearing for them. On interaction with Respondent No.2, she stated that even the amount which is mentioned in the FIR has been received by her and

one Kirankumar More from the Accused No.1 Narayan Choudhari. Mr.Kirankumar More, who is cited as witness is also present in the Court. He also confirms the receipt of money from the accused.

3. It is true that the Accused No.1 is not the Applicant however, it is stated in paragraph 3 of the affidavit that the informant has no any claim against the Petitioner and Accused No.1 and she is withdrawing all allegations against both the Accused.

4. In the light of discussion in the foregoing paragraphs and keeping in view the observations made by Supreme Court in the case of *Gian Singh vs State of Punjab and another* – (2012) 10 SCC 303, that if the parties have settled the dispute amicably, though one or some of the offences mentioned are not compoundable, the High Court while exercising powers under section 482 of Code of Criminal Procedure can quash the FIR / charge-sheet / or the proceedings as the case may be, to secure the ends of justice and to prevent the abuse of the process of law.

5. In the facts of the present case the Respondent No.2 i.e. the informant, herself has stated that she does not wish to continue the FIR as continuation will ultimately disturb her future life and family peace and she is happy by amicable settlement being done in between herself and the Applicant.

6. Though the Investigation Officer has mentioned Section 354 of Indian Penal Code in the FIR, however the allegations in the FIR are in the nature of attracting the ingredients of section 509 of Indian Penal Code. The offence under section 509 of Indian Penal Code is compoundable with the leave of the Court. In that view of the matter, the Petition deserves to be allowed. Accordingly, Rule is made absolute in terms of the prayer clauses (a). Petition is allowed and the same stands disposed of.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)

Maria Luiza
Nicholas
Sequeira

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by Maria Luiza
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