

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4869 OF 2017

Fakru Mandal & Ors.Petitioners
V/s.
The Senior Inspector of Police
, Paydhuni Police Station & Ors.Respondents

Mr. Sandeep Bali, Advocate for Petitioners.
Mr. K.V.Saste, APP for the Respondent Nos.1 and 3-State.
Mr. S.L.Shete, Advocate for Respondent No.2.
Petitioner Nos.1, 2 and Respondent No.2 present.

**CORAM :- R.M.SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 9TH JANUARY, 2018.

PC. :-

The above Writ Petition has been filed for quashing the FIR No.308 of 2017 dated 10.10.2017 registered by Pydhoni Police Station under Section 326 read with Section 34 of the IPC. The gravamen of the allegation against the Petitioners is mentioned in the FIR. It seems that the parties are from Jharkhand and working in the Mumbai and staying in the same locality. The Respondent No.2, i.e., the First Informant has filed an affidavit dated 21.11.2017 which is annexed to the above Petition as Annexure 'B'. In the context of the reliefs sought in the above Petition, paragraphs 3 and

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4 of the said affidavit are material and are reproduced hereunder:

“3] I say and submit that we worked out an amicably settlement of the dispute which led to registration of F.I.R. bearing CR No.308 of 2017 for the offences punishable under Section 326 read with Section 34 of the Indian Penal Code. I say and submit that the said complaint was lodged by me due to misunderstanding and since the said misunderstanding is clear and I have no complaint as against the Petitioners and others and I hereby consent for quashing of F.I.R. as the dispute is amicably settled between us.

4] I say and submit that the dispute is now amicably settled by and between the Petitioners herein and me therefore I have no objection the FIR bearing no.308 of 2017 (Paydhuni Police Station, Mumbai) is being quashed and set aside by this Hon'ble Court. I further say and submit that I have settled the dispute between us as per my own wish without any force and coercion and the said complaint is filed by me under a misunderstanding and therefore, I do not wish to pursue the present F.I.R. and record my no objection/consent for quashing of FIR bearing No.308 of 2017 by this Hon'ble Court.”

Reading of the said paragraphs, therefore, discloses that the parties have now amicably settled the disputes between them. It can further be seen that the FIR was lodged on account of misunderstanding which has now been cleared.

2 The Respondent No.2, i.e., the First Informant is personally present in the Court. He is identified by the learned counsel Mr. Sagar Shete who states that photo-copy of the Adhar Card of the Respondent No.2 attested as true copy by him would be tendered during the course of the day. Statement accepted. When

put in the box and queried, the Respondent No.2 states that he is not interested in proceeding with the prosecution of the Petitioners as the matter is amicably settled between him and the Petitioners. The Petitioner No.1-Fakru Mandal is personally present in the Court. He is identified by the learned counsel Mr. Bali. He is also identified by his Adhar Card bearing No.7226 3855 1958. When put in the box and queried, he states that the matter has been amicably settled between the Petitioners and the Respondent No.2. As a result of which the Respondent No.2 does not want to proceed with the case. Petitioner No.2 is also personally present in the Court. He is identified by the learned counsel Mr. Bali. The learned counsel states that he would file photo-copy of his Adhar Card duly attested by him as true copy during the course of the day. Statement accepted. When put in the box and queried, he reiterates what the Petitioner No.1 has stated. The Petitioner No.3 is incarcerated in Arthur Road Jail as he has been arrested pursuant to the instant FIR and hence, he is not present in Court. In view of the affidavit filed by the First Informant dated 21.11.2017 and in view of the statements made by the First Informant as well as the Petitioner Nos.1 and 2, it is clear that parties have amicably settled their disputes as a consequence of which the First Informant does not want to proceed with his case

which is the complaint. Hence, having regard to the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. Same, therefore, deserves to be quashed and set aside and is, accordingly, quashed and set aside. The Petition is, accordingly, made absolute in terms of prayer clause (a).

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)