

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3267 OF 2019**

Shri Harish Gopal Rabhadiya

.. Petitioner

Vs.

1.The State of Maharashtra
through Ghatkopal Police Station,
Mumbai & Anr.

.. Respondents

Mr.R.D.Suryawanshi for petitioner.

Mrs.A.S. Pai, APP for respondent No.1-State.

Mr.Suraj N. Naik i/b Mr. Satish B. Patil for respondent No.2.

**CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.**

DATE : 18TH SEPTEMBER 2019

P.C.

1. Heard the learned counsel for the petitioner, the learned APP for the respondent No.1-State and the learned counsel for the respondent No.2.

2. The petition is filed for quashing and setting aside the First Information Report bearing C.R.No. 86 of 2019, at the instance of the respondent No.2, registered with Ghatkopar Police Station, Mumbai for the offences punishable under sections 326 and 504 read with section 34 of the Indian Penal Code, 1860 (IPC) qua the petitioner only.

3. The subject FIR was registered on 5th February 2019 against one Nanji Chavan and the petitioner-Harish Gopal Rabhadiya. The allegation made in the FIR is that the present petitioner caught hold of the hands of the complainant and said Nanji Chavan hit the complainant on his head by means of stone.

4. Pending investigation, the complainant and the respondent No.2 have settled their disputes amicably and pursuant to the understandings arrived at between them, they have approached this Court for quashing the subject FIR by consent. Accordingly, the respondent No.2 has filed an affidavit dated 27th June 2019 and in paragraphs 3 and 4 of the affidavit, stated as under :-

“3. I say that during pendency of the further investigation, an amicable settlement arrived at between the Petitioner and myself with the intervention of the senior members of the family from both the sides as well as senior officers and as a result thereof the Petitioner and I have decided to compromise and settle all the disputes for once and all, qua the Petitioner.

4. I say that since both the parties have buried their enmity once and for all, prosecuting the Petitioner would not serve any purpose. I further say that in the interest of justice and also to avoid abuse of process of court, the said F.I.R. and case deserves to be quashed and set aside, qua the Petitioner as I want to continue with to prosecution against co-accused Nanji Chavan. I say that the compromise between both the parties is bonafide and is free from any pressure or threats of whatsoever nature from anybody.”

5. The complainant and the respondent No.2 are present in Court and on specific query of the Court, they confirmed that they have no objection to quash the proceedings of the subject FIR.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. In these circumstances, and

especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab**¹, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

7. Accordingly, the writ petition is allowed in terms of prayer clauses (a) qua the petitioner. It is made clear that we have not set aside the subject FIR qua the accused No.1-Nanji Chavan.

8. At the same time, costs need to be saddled on the petitioner for using the police and judicial machinery for settling their personal disputes. In view of this, the petitioner to pay a sum of Rs.5,000/- as costs. This amount of Rs.5,000/- to be paid to “**Tata Memorial Hospital**”, an institution that takes care of the patients suffering from cancer at advanced stage and/or terminally ill due to cancer. For the quashment to take effect, the petitioner 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 proceedings/FIR shall be treated as *non-est*.

9. Subject to above, the criminal writ petition stands disposed of qua the petitioner.

1 2014 AIR SCW 2065

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]