

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

CRIMINAL WRIT PETITION NO. 1475 OF 2021

Moulali Gafur Faras
Age: 25 Years, Occ- Service,
R/o. Haidra, Tal:- Akkalkot,
Dist. Solapur.

...PETITIONER

Versus

1. State of Maharashtra
[Through Akkalkot South
Police Station Vide CR No. 521/2020]

2. Saibanna Pirappa Harijan
Age- 22 years, Occ- Labour,
R/o Haidra, Tal- Akkalkot
Dist. Solapur.

...RESPONDENTS

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Mr. Ritesh Thobde for Petitioner.
Mr. Nitesh Mohite for Respondent No. 2.
Mr. S.R. Shinde, APP for State.

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**CORAM : S. S. SHINDE &
MANISH PITALE, JJ.**

**RESERVED ON : 24th MARCH, 2021.
PRONOUNCED ON: 25th MARCH 2021.**

JUDGMENT [PER S.S. SHINDE, J.]:

. Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the parties.

2. Learned counsel appearing for the Petitioner and Respondent No. 2 jointly submits that the parties have amicably settled the dispute.

Learned counsel appearing for the Respondent No. 2 has filed affidavit on behalf of Respondent No. 2. Paragraphs 2 to 8 of the said affidavit reads as under:-

2) I further state that, I have been living at the above stated address along with my family since time immemorial. The house of the Petitioner is adjacent to mine at village Haidra. On 8.12.2020 there was exchange of words between the Petitioner and myself. I say that, because of the same I had lodged above mentioned FIR. However, the village elders and persons of repute in the community have brought about an understanding between myself and the Petitioner. I realise that it is in the best interest of both our families that we live together in harmony and without any animosity towards each other. I say that I have unconditionally accepted the settlement with the Petitioners considering the future of our families.

3) I say that, in view of the said amicable settlement, it is my wish that the Petitioner be released of all the offences registered against him at my behest.

4) I further state that, the relations with the Petitioner have amicably been resolved and no untoward incident has taken place either prior to the one mentioned in the FIR nor thereafter.

5) I state that, due to the close proximity between myself and the Petitioner also in order to maintain

co-ordeal relations considering our respective future lives, myself and the Petitioners have amicably arrived at a settlement. I state that it is my free wish that the Petitioner be released from all offences leveled against him at my behest.

6) I further state that, I have no grievance against the Petitioner and have agreed to the settlement out of my own free will and consent without any force or coercion on the part of the Petitioner.

7) I wish that the Petitioner be released of the offences charged against him in C.R. No. 521/2020 registered with Akkalkot South Police Station Police Station, Dist. Solapur.

8) I further state that, in view of the above, I have no hesitation in permitting the FIR bearing C.R. No. 521/2020 and the proceedings arising out of the same against the Petitioner being quashed and set aside.

3. Since the present petition is filed for quashing the FIR for the offences registered under the Indian Penal Code and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, this Court by order dated 22.03.2021 directed the Respondent No. 2 to file an additional affidavit. Accordingly, Respondent No. 2 filed his additional affidavit dated 22.03.2021. In Paragraph 4 of the said additional affidavit Respondent No. 2 stated thus:-

4) I say that, I realized that the intention of the Petitioner was never to insult/intimidate or humiliate me as a member of Scheduled Caste or Scheduled Tribe in public. There was simply an exchange of words between us due to a heated quarrel and loss of temper of myself and the Petitioner over providing a glass of water to him.

4. On 22.03.2021 the Respondent No. 2 (original complainant) was present before this Court. On interaction with him he stated that it is his voluntary act to enter into the settlement and give consent for quashing of the impugned FIR.

5. Since the parties have amicably settled the dispute, no fruitful purpose would be served by continuing the further investigation of C.R. No. 521 of 2020 dated 08.12.2020 registered Akkalkot South Police Station for the offences punishable under Section 452, 323, 504, 506 of IPC and Section 3(1)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Further continuation of aforesaid investigation would tantamount to the abuse of the process of the law/Court. From reading an additional affidavit filed by the 2nd respondent that the provisions of aforementioned Special Act are not attracted.

6. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ has held that, the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offence arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It is further held that, as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (I) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

7. In the light of discussion in foregoing paragraphs, we are of the opinion that the writ petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (a), which reads thus:-

1 2012 (10) SCC 303

a) This Hon'ble Court by invoking writ jurisdiction under Article 226 of the Constitution of India r.w. inherent powers under S. 482 of Cr.PC may issue appropriate writ, order and/or direction and quash and set aside the impugned First Information Report dated 8.12.2020 in C.R. No. 521/2020 registered with Akkalkot South Police Station Police Station for the offences U/s. 452, 323, 504, 506 of IPC and U/s. 3(1)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and subsequently all proceedings arising therefrom against the Petitioner.

8. Rule made absolute to above extent. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)