

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1677 OF 2021

Bakhtiyar Ahmed Mahamudkhan Pathan
and others

.... Petitioners

Versus

The State of Maharashtra
and another

.... Respondents

....

Mr. Kishor Walanju, Advocate for the Petitioners.

Ms. M.H. Mhatre, APP, for Respondent No.1 -State.

Mr. Ujwal Agandsurve, Advocate for Respondent No.2.

....

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 26 OCTOBER 2021

P.C.

Heard Shri Kishor Walanju, the learned counsel for the Petitioners, Smt. M.H. Mhatre, the learned APP for Respondent No.1 State and Shri Ujwal Agandsurve, the learned counsel for Respondent No.2

2. Rule. Rule is made returnable forthwith by consent of the parties.

3. This petition is preferred for quashing of the FIR and the

criminal proceedings arising out of the offence registered vide C.R. No.63/2021 at Jail Road police station, Solapur. The offence is registered under Sections 323, 327, 504, 506, 143, 145, 147, 148, 149 of the Indian Penal Code, under Section 135 of the Maharashtra Police Act and under Section 25(4) of the Arms Act. The FIR was lodged on 13 February 2021. The FIR was lodged by one Amina Mahammed Rafik Hatture. She has stated that her family was owning a house at Siddheshwar Peth, Kadadi Chawl, Solapur. At the time of incident, her brother-in-law was residing in that house. There was a tree in that property. The informant Amina and her family had taken permission from the Solapur Municipal Corporation for cutting that tree. They had decided to cut that tree on 12 February 2021. At that time the officers of the Corporation and other employees had come to the property for cutting that tree. There was an electricity wire running through the tree. At about 3:15 p.m. to 3:30 p.m., the Petitioner No.1 came there and started quarreling with the informant's family. He told that they should not cut the tree and they should switch off the electricity. He was told that the informant's family had requisite permission but he had not listen. He was joined by his son Petitioner No.8 Mussamil Pathan and other Petitioners. It was alleged that the Petitioners Bhaktiyar Pathan and Mussamil Pathan were carrying swords. The informant's group was assaulted. They were threatened to assault with sword. The informant's group was assaulted with kick and fist blows. In the incident, the informant's gold locket and Rs.Five Thousand were taken away forcibly. On this

basis, the FIR is lodged.

4. Both the learned counsel for the Petitioners as well as the informant–Respondent No.2 jointly submitted that the parties have settled their dispute through mediation of seniors in the locality and the Respondent No.2 does not wish to prosecute this matter any further. Both the learned counsel relied on the affidavit filed by Respondent No.2-informant. It is mentioned in the affidavit that the dispute had come to an end and the Petitioners and the informant had agreed to settle the dispute amicably because of interaction of respectable and senior members from the vicinity. They wish to keep harmony in the said chawl. It is mentioned in the affidavit that it was a sudden quarrel where the injury sustained by the informant was simple in nature. She has stated that she had no objection for giving consent for quashing of the FIR and that she was withdrawing all allegations against the Petitioners. While arguing the learned counsel for Respondent No.2 has endorsed the statements made in the affidavit.

5. We have considered these submissions as well as the statements made in the affidavit. There is a counter offence registered vide C.R. No.64/2021 in respect of which a separate Petition being Criminal Writ Petition No.1691/2021 was filed for quashing of the FIR and the proceedings.

6. In this situation, it is clear that the dispute was a private

dispute between the two groups. The society in general was not involved. The counter C.R. No.64/2021 is separately quashed by passing an order in the aforesaid Criminal Writ Petition No.1691/2021. In this view of the matter, considering the guidelines laid down by the Hon'ble Supreme Court in the case of *Gian Singh Vs. State of Punjab and another*, reported in (2012) 10 SCC 303, this is a fit case in which FIR and the subsequent proceedings can be quashed. Hence, the following order :

:: O R D E R ::

- i. The Petition is allowed. The FIR and the consequent proceedings arising out of C.R. No.63/2021 registered at Jail Road Police Station, Solapur are hereby quashed and set aside.
- ii. Rule is made absolute in aforesaid terms.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)