

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1294 OF 2019**

1] Jyoti Surjit Khanna	)	
Age – 39 years, Occ: Business	)	
Indian Inhabitant of Mumbai,	)	
residing at Mahatma Phule Nagar, 112	)	
Near Police Quarter, Teen Dongri,	)	
Goregaon West, Mumbai	)	
	)	
2] Ronit Surjit Khanna	)	
Age : - 19 years Occ: Student, Adult	)	
Mahatma Phule Nagar, 112	)	
Near Police Quarter, Teen Dongri,	)	
Goregaon West, Mumbai	)	
	)	
3] Hamid Ali Lal Mohd. Shah	)	
Age:- 38 years, Occ:- Service, adult,	)	
Vrindavan Chawl, Link Road,	)	
Behrambaug, Jogeshwari West	)	
Mumbai:- 400102	)	 Petitioners.

V/s

1] The State of Maharashtra	)	
	)	
2] Sr. Inspector of Police	)	
Goregaon Police Station, Mumbai	)	
	)	
3] Karan Ravindra Bandekar	)	
Age:- 22 years Occ- Student	)	
Indian Inhabitant of Mumbai, residing	)	
at 3/192, Sane Guruji Nagar,	)	
Goregaon West, Mumbai – 400 104	)	 Respondents.
		(Respondent No.3 - original complainant)

**ALONGWITH
CRIMINAL WRIT PETITION NO.1304 OF 2019**

1] Karan Ravindra Bandekar	)	
Age:- 22 years, Occ:- Student,	)	
Indian Inhabitant of Mumbai, residing	)	
at 3/192, Sane Guruji Nagar,	)	
Goregaon West, Mumbai:- 400104	)	
	)	
2] Harshal Ravindra Bandekar	)	
Age 20 years, Occ:- Student, adult,	)	
3/192, Sane Guruji Nagar,	)	
Goregaon West, Mumbai :- 400104	)	 Petitioners.

V/s

1] The State of Maharashtra	)	
	)	
2] Sr. Inspector of Police	)	
Goregaon Police Station, Mumbai.	)	
	)	
3] Mrs. Jyoti Surjit Khanna	)	
Age: - 41 years, Occ:- Homemaker	)	
Residing at:- Mahatma Phule Nagar, 112)	)	
Near Police Quarter, Teen Dongri,	)	
Goregaon West, Mumbai – 400104	)	Respondents
		(Respondent No.3 – original complainant)

Mr. Bhavesh V. Magam for the Petitioner in Writ Petition No.1294 of 2019 and for Respondent No.3 in Writ Petition No.1304 of 2019.
Mr. Vishal V. Chavan for the Petitioner in Writ Petition No.1304 of 2019 and for Respondent No.3 in Writ Petition No.1294 of 2019.
Mr. Deepak Thakre, P.P. a/w Mrs. S.D. Shinde, APP for Respondent-State.

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

**Judgment reserved on : 30/03/2021
Judgment pronounced on : 05/04/2021**

JUDGMENT (Per Manish Pitale, J.)

1] Heard.

2] Rule. Rule is made returnable forthwith. By consent of parties, both these Criminal Writ Petitions are taken up for final disposal.

3] These two Writ Petitions have been filed seeking quashing of the First Information Reports (“FIRs”) registered by the parties against each other. The FIRs are sought to be quashed on the basis of consent being given by the complainants in the said FIRs, pursuant to amicable settlement of dispute between the parties.

4] It is submitted in these Writ Petitions that genesis of the dispute between the parties was an interaction that the complainants in these two FIRs had with each other. Although allegations were made leading to registration of FIRs under Sections 323, 324, 504, as also under Sections 452, 354 read with Section 34 of the Indian Penal

Code, it is stated in the Writ Petitions, as also affidavits filed on behalf of the Complainants in these FIRs that the said FIRs stood registered in a fit of anger and also on the basis of misunderstanding between the parties.

5] The Petitioner No.1 in Writ Petition No.1294 of 2019 is the Complainant in one of the FIRs and similarly Petitioner No.1 in Writ Petition No.1304 of 2019 is the Complainant in the other FIR.

6] It is evident from the material placed on record that the parties are residents of the same neighbourhood and a trivial dispute between the parties escalated into lodging of FIRs against each other.

7] The parties have settled their *inter se* dispute and it is for this reason that the present Writ Petitions have been filed for quashing of the FIR wherein respective Complainants appearing as 3rd Respondent in these Writ Petitions have filed consent affidavits to put a closure to the matter.

8] We have perused the contents of the Writ Petitions, as also

consent affidavits filed by original Complainants. Insofar as Writ Petition No.1304 of 2019 is concerned, since there was allegation pertaining to registration of offence under Section 354 of the Indian Penal Code, we called upon Respondent No.3 therein i.e. original Complainant to file an additional consent affidavit to state in detail as to what happened on the day in question and as to why she was now consenting to quashing of the FIR. Since the allegations for offence under Section 354 of the Indian Penal Code pertain to daughter of the original Complainant, we thought it fit to ask the daughter of the Complainant to also file an appropriate affidavit explaining the details regarding the alleged incident.

9] Consequently, an additional consent affidavit of Respondent No.3 in Writ Petition No.1304 of 2019 and consent affidavit of her daughter were tendered across the bar, which we have taken on record. The relevant paragraphs of the additional consent affidavit filed by Respondent No.3 in the aforesaid Writ Petition read as follows:-

“1. I say that, I had filed the present First

Information Report against the Petitioners bearing C.R. No.457 of 2018 dated 24/08/2018, U/sec. 452, 354, 323, 504 and 34 of I.P.C. at Goregaon Police Station at Goregaon, Mumbai.

2. I say that there was no incident of assault or use of criminal force on my daughter or me with any intent to outrage modesty. There was quarrel between myself and the Petitioner at my home, however inadvertently the statement was incorrectly recorded and offence under section 354 of IPC was registered in the FIR No.457 of 2018.

3. I say that for other incidents, we have amicably settled and mutually agreed to quash the FIR No.457 of 2018.

4. I say that in view of the foregoing, the present Petitioner be allowed, thereby the F.I.R. No.457 of 2019 dated 24.08.2019 U/sec. 452, 354, 323, 504 and 34 I.P.C in Goregaon Police Station at Goregaon, Mumbai, be quashed and set aside against the Petitioner/accused, further the concerned officer of the Goregaon Police Station at Mumbai be directed not to take any coercive steps against the Petitioner/accused in respect of F.I.R. No.457/2018 filed on 24.08.2018 in Goregaon Police Station, Mumbai.”

The daughter of Respondent No.3 in the aforesaid Writ Petition has stated in her consent affidavit as follows:-

“1. I say that, my mother had filed the present First Information Report against the Petitioners bearing C.R. No.457 of 2018 dated 24/08/2018, U/sec. 452, 354, 323, 504 and 34 IPC at Goregaon Police Station at Goregaon Mumbai.

2. I say that there was no incident of assault or use of criminal force either on me with any intent to outrage modesty. There was quarrel between my mother and the Petitioner at home, however inadvertently the statement was incorrectly recorded and offence under Section 354 of IPC was registered in the FIR no.457 of 2018.

3. I say that for other incidents, we have amicably settled and mutually agreed to quash the FIR No.457 of 2018.

4. I say that in view of the foregoing, the present Petitioner be allowed, thereby the F.I.R. No.457 of 2019 dated 24.08.2019, U/sec. 452, 354, 323, 504 and 34 of I.P.C. in Goregaon Police Station at Goregaon, Mumbai be quashed and set aside against the Petitioner/accused, further the concerned officer of the Goregaon Police Station at Mumbai be directed not to take any coercive steps against the Petitioner/accused in the respect of F.I.R. no. 457/2018 filed on 24.08.2018 in Goregaon Police Station, Mumbai.”

10] Respondent No.3 in the said Writ Petition, as also her daughter

were personally present in this Court. We have interacted with them and they stated that the said affidavits were voluntarily sworn and tendered before this Court. It is stated that there was no coercion of pressure on them to tender such affidavits. It is clearly stated in the said affidavits that the incident, as described, did not take place and it was due to quarrel between the parties that such allegations were levelled against the Petitioner in Writ Petition No.1304 of 2019. Even otherwise, we have perused the contents of the FIR and we find that a general allegation has been levelled against the Petitioner in the context of daughter of Respondent No.3 in the said Writ Petition wherein specific details are absent, thereby indicating that ingredients of offence under Section 354 of the Indian Penal Code cannot be said to be clearly made out.

11] Insofar as Writ Petition No.1294 of 2019 is concerned, Respondent No.3 therein i.e. original Complainant has filed an affidavit stating that the matter has been resolved between the parties and that he has no objection to the FIR being quashed. Relevant paragraphs of the said affidavit read as follows:-

“1. I say that, I had filed the present First Information Report against the Petitioners bearing C.R. No.458 of 2018 dated 24/08/2018, U/sec. 324, 323, 504 and 34 of I.P.C. at Goregaon Police Station at Goregaon, Mumbai.

2. I say that dispute between Petitioners and myself have amicably settled. Accordingly the Petitioners and Respondent No.3 have executed compromised Deed dated 01.02.2019 and that since the matter has been settled between the parties, it is mutually agreed to approach this Hon'ble High Court by filing present petition to quash the said FIR No.458 of 2018.

3. I say that as per the Compromise Deed dated 01.02.2019, there is no claim or dispute whatsoever pending between me and Petitioners. I say that whatever allegations made in C.R. No.458 of 2018 by me stands withdrawn.

4. I say that I will not file any matter regarding or touching to the said C.R. 458/2018.

5. I say that in view of the foregoing, the present Petitioner be allowed, thereby the F.I.R. No.458 of 2019 dated 24.08.2019, U/sec. 324, 323, 504 and 34 of I.P.C. in Goregaon Police Station at Goregaon, Mumbai be quashed and set aside against the Petitioner/accused, further the concerned officer of the Goregaon Police Station at Mumbai be directed not to take any coercive steps against the Petitioner/accused in the respect of F.I.R. no.458 of 2018 filed on 24.08.2018 in

Goregaon Police Station, Mumbai.”

12] A perusal of the above quoted portion of the consent affidavit filed on behalf of Respondent No.3 shows that original Complainant does not wish to pursue the matter any longer since dispute has been amicably resolved and the allegations in the FIR appear to have been made due to quarrel between the parties.

13] The Hon’ble Supreme Court in the case of *Giansingh v. State of Punjab and Another*, reported in **(2012) 10 SCC 303** 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.

14] In view of the ratio of the aforesaid judgment of the Hon'ble Supreme Court, it becomes clear that where dispute between the parties are essentially of a personal nature and allegations have been made on the basis of anger and outrage which are not likely to be supported at all by the original Complainant, there is no purpose in continuing with the proceedings in pursuance of such FIRs. In the present case also, in view of the aforesaid affidavits placed before this Court and admission on the part of the original Complainant that allegations were made due to quarrel between the parties, there is hardly any likelihood of the proceedings culminating into conviction of the respective accused persons in these FIRs. No fruitful purpose would be served in allowing such proceedings to continue and

therefore the present Writ Petitions deserve to be allowed.

15] Accordingly Criminal Writ Petition No.1294 of 2019 is allowed in terms of prayer clause (a). Prayer clause (a) reads as follows:-

“a) That this Hon’ble Court by pleased quash and set aside the FIR bearing No.458 of 2018 dated 01/02/2018 pending before the respondent no.2 the Gorergaon police station U/Sec. 324, 323, 504 and 34 of the Indian Penal Code in view of the Compromise Deed/Settlement Agreement dated 24/08/2018 annexed to the petition as **EXHIBIT “B”** filed before this Hon’ble Court in its Extra Inherent Jurisdiction.”

16] Criminal Writ Petition No.1304 of 2019 is allowed in terms of prayer clause (a). Prayer clause (a) reads as follows:-

“a) That this Hon’ble Court be pleased quash and set aside the FIR bearing No.457 of 2018 dated 01/02/2018 pending before the respondent no.2 the Goregaon police station U/Sec. 452, 354, 323, 504 and 34 of the Indian Penal Code in view of the

Compromise Deed/Settlement Agreement dated 24/08/2018 annexed to the petition as **EXHIBIT “B”** filed before this Hon’ble Court in its Extra inherent Jurisdiction.”

17] Rule is made absolute in aforesaid terms.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)

Bharat D.
Pandit

Digitally signed
by Bharat D.
Pandit
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