

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2289 OF 2021

Sameer Shokat Hussain Shaikh
and another

.... Petitioners

Versus

State of Maharashtra
and another

.... Respondents

....

Mr. Ravi Dwivedi, Advocate for the Petitioners.

Mr. K.V. Saste, APP, for Respondent No.1-State.

Ms. Sunita Chidurala, Advocate for Respondent No.2.

....

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

DATE : 06 OCTOBER 2021

P.C.

This is a Petition for quashing of the proceedings arising out of C.R. No.347/2020 dated 17 October 2020 registered at Nirmal Nagar Police Station, Mumbai under Sections 326, 324, 323, 504, 143, 147 read with 34 of the Indian Penal Code. The Petitioners are seeking quashing by consent as Respondent No.2 has consented to quash all these offences.

2. Heard Shri Ravi Dwivedi, the learned Counsel for the Petitioners, Shri K.V. Saste, the learned APP for Respondent No.1-State and Ms. Sunita Chidurala, the learned Counsel for Respondent No.2.

3. Rule. Rule is made returnable forthwith.
4. The FIR was lodged on 17 October 2020 by one Rohan Kadam. He has stated that he was residing in Shri Saibaba Co-operative Housing Society, Golibar Road, Santacruz (East), Mumbai. The Society had given contract to Petitioner No.1 Sameer Shaikh for looking after parking of the vehicles in the society. The informant used to park his motorcycle in the parking area and used to pay Rs.300/- per month for that.
5. On 16 October 2020, at about 8:30 p.m. to 9:30 p.m., when the informant returned to his Society, he was stopped by Sameer Shaikh, i.e. the first petitioner. He asked the informant why he had not paid the charges for the past month. The informant tried to explain that he had made such payment and asked Petitioner No.1 to verify his record. Petitioner No.1 took offence and threatened the informant. He started abusing the informant. Petitioner No.1 called Mohasin and Zulfikar. They started chasing the informant. It is alleged that Petitioner No.1 gave a blow with iron rod on the informant's left thigh. Petitioner No.1's son Mohasin gave a blow on the backside of the informant's head with iron rod. Zulfikar gave a blow on the left elbow of the informant. The informant rescued himself and went home. Thereafter, he was taken to a hospital at Santacruz. He had three stitches on his head and his left elbow was fractured. Thereafter, he lodged his FIR.
6. The learned Counsel for the Petitioners as well as

Respondent No.2 jointly stated that the matter is settled between the informant and the Petitioners. The learned Counsel for the Petitioners submitted that in any case no major role of causing grievous injuries is attributed to the Petitioners.

7. Respondent No.2—the first informant has filed his affidavit. In Paragraphs No.2 to 5, it was mentioned that the dispute was settled with the intervention of friends and other persons in the vicinity. The informant had no objection if the offence was quashed. That the informant was withdrawing all allegations levelled against the accused—the Petitioners herein, and that, no useful purpose would be served by proceeding further in this registered offence.

8. We have perused the injury certificate produced by the learned A.P.P.. The informant had suffered one C.L.W. over the scalp of size 2 cm X 1 cm X 0.5 cm. It was not described as a grievous injury. There was pain in the right elbow and it appears that X-ray was taken and, as alleged, there could be fracture of the elbow.

9. The injury on the head is not grievous. The other injury is not on the vital part and, therefore, the offence will not travel, at the highest, beyond Section 326 of the Indian Penal Code.

10. The learned Counsel for Respondent No.2 has stated that Respondent No.2 is unable to attend the Court today because he is out of station, but, she confirms the averments made in the affidavit filed by Respondent No.2 as his counsel. We accept her submissions.

11. Therefore, no purpose will be served by keeping these

proceedings pending and they can be quashed. In passing this order, we are relying on the observations of the Hon'ble Supreme Court in the case of **Ramgopal and another Vs. State of Madhya Pradesh**¹. In similar circumstances, the Hon'ble Supreme Court had observed that this Court under Section 482 of Code of Criminal Procedure can quash such proceedings by consent in view of the settlement arrived at between the victim and the offender. The dispute and the incident was strictly private between the parties and it had no serious impact on the society and, therefore, there is no impediment in allowing this Writ Petition. Hence, the following order :

:: O R D E R ::

- i. The Petition is allowed.
- ii. The proceedings arising out of C.R. No.347/2020 registered with Nirmal Nagar Police Station, Mumbai, are hereby quashed and set aside *qua* the Petitioners herein.
- iii. Rule is made absolute in aforesaid terms.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2021.10.08
10:39:22 +0530

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

Deshmane (PS)

1 2021 SCC OnLine SC 834