

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

CRIMINAL WRIT PETITION NO. 3315 OF 2021

SHRADDHA
KAMLESH
TALEKAR

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SHRADDHA
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1. Bapu Tukaram Alhat,
Age : 27 years,
2 Balasaheb Tukaram Alhat,
Age : 29 years,
Both residing at Alhatvasti, Post Nigoj,
Tal. Khed, Dist. Pune.

.... Petitioners

Versus

1. The Senior Inspector of Police,
Chakan Police Station,
Dist. Chakan.

2. The Superintendent of Police,
Pune.

3. Arun Ramchandra Kirawe,
Residing at Plot No. 502,
Sector 25, Sindhu Nagar, Nigadi,
Pune.

4. The State of Maharashtra,
Through the Secretary,
Home Department,
Mantralaya, Mumbai – 400 032.

.... Respondents

Mr. Sanjiv Sawant i/b Mr.S.M. Suryawanshi for petitioners.
Mr. Abhishek Deshmukh i/b Mr.S.D. Kadam for respondent No.3.
Mr. J.P. Yagnik, APP for State.
Mr.Arun Ramchandra Kirawe, respondent No.3 present in Court
and interacted.

CORAM : S. S. SHINDE &

N.J. JAMADAR, JJ.

Date : 28th September 2021.

JUDGMENT : (PER N.J. JAMADAR, J.)

1. Rule. Rule made returnable forthwith and, with the consent of the learned counsels for the parties, heard finally.
2. This petition under Article 226 of the Constitution of India is preferred to quash FIR bearing No.1240 of 2020, dated 21st November 2021, registered with Chakan Police Station, Khed, District Pune, for the offences punishable under sections 326 and 323 read with 34 of the Indian Penal Code, 1860 ('the Penal Code').
3. The petitioners reside at Alhatvasti, Nigoj, falling within the jurisdiction of Mahalunge Police Post, Chakan Police Station. The petitioners allegedly assaulted Arun Ramchandra Kirawe, the victim, who had knocked the door of the petitioners on the night intervening 20th November 2020 and 21st November 2020. The victim reported that the petitioners allegedly beat him initially by fist and blows and, latter on, the petitioner No.1-Bapu unleashed a blow by means of a blunt object on his head. He sustained bleeding injuries. He was admitted at Jaihind Hospital, Chakan. On the basis of the statement made by the victim, crime was registered against the petitioners at C.R. No.1240/2020 with Chakan Police Station for the aforesaid offences.
4. Mr. Sawant, learned counsel for the petitioners and Mr.

Deshmukh, learned counsel for respondent No.3 make a joint statement that in the intervening period, the petitioners and respondent No.3 have amicably resolved the dispute. In fact, petitioner No.1-Bapu had lodged the report of house trespass at night and attempt to commit theft against respondent No.3, leading to C.R.No.1239 of 2020 for the offences punishable under section 457, 380 and 511 of the Indian Penal Code. The entire incident occurred at the dead of night and cross cases were registered on account of misunderstanding. Respondent No.3 has no objection to quash the FIR and the consequent proceedings.

5. Respondent No.3 has filed an affidavit incorporating no objection to quash the proceedings. Respondent No.3 appeared before the Court. He was identified by the learned Advocate for respondent No.3. We have interacted with respondent No.3.

6. Respondent No.3 submitted that he has voluntarily resolved the dispute with the petitioners. There is no coercion or duress. The petitioners had incurred the expenses on his medical treatment. He has, thus, filed the affidavit on his own volition. Respondent No.3 admitted the contents of the affidavit and execution thereof.

7. Paragraph Nos.1 to 4 of the affidavit read as under :

"1. I say that I am the Respondent No.3 in the aforementioned Criminal Writ Petition filed by the petitioner before this Hon'ble Court, wherein prayer has been made to quash and set aside the FIR No. 1240 of 2020 dated 21st November 2020 under sections 326, 323 along with 34 of Indian Penal Code, registered with Chakan Police Station, Pimpri Chinchwad, Pune, presently pending on the files of Learned Judicial Magistrate, First Class, Khed.

2. I further say that I hereby give my consent to quash and set aside the said FIR No. 1240 of 2020 dated 21st November, 2020, registered with Chakan Police Station, Pimpri Chinchwad, Pune.

3. I say that the present FIR was filed due to some misunderstanding between me and the Petitioners and as of date, I am not having any grievances against the Petitioners as well as misunderstanding between us is already settled and therefore I am giving consent for quashing the said FIR No. 1240 of 2020 dated 21st November 2020, registered with Chakan Police Station, Pimpri Chinchwad, Pune.

4. I am filing this affidavit before this Hon'ble Court for the limited purpose of giving consent for quashing and setting aside the aforementioned FIR, the same be done in view of my consent given as I am the complainant in the FIR No. 1240 of 2020 dated 21st November, 2020, registered with Chakan Police Station, Pimpri Chinchwad, Pune."

8. In the backdrop of the aforesaid submissions, statements and assertions in the affidavit, we have perused the material on record. It is evident that in respect of one and the same occurrence, cross cases have been filed by petitioner No.1 and respondent No.3. Indeed, respondent No.3 had suffered a grievous injury. He was admitted in hospital for more than seven days. However, the

circumstances in which the incident occurred, cannot be lost sight of. It is quite possible that at the dead of night, the incident of assault might have occurred without comprehending the true state of affairs. We are, therefore, persuaded to consider the prayer for quashment.

9. The learned counsel for the petitioners submitted that having regard to the fact that respondent No.3 had suffered a grievous injury and the apparent poor financial position of respondent No.3, the petitioners volunteer to pay a sum of Rs.1,00,000/- to respondent No.3, by way of compensation, though the petitioners acted in exercise of right of private defence. The offer made by the petitioners appears reasonable and bona-fide.

10. In view of the settlement arrived at between the parties, in our view, continuation of the prosecution would serve no fruitful purpose. It is extremely unlikely that the respondent No.3 would support the prosecution and it would end in conviction. Continuation of prosecution, in such circumstances, would cause grave prejudice to the petitioners and respondent No.3, as well. It may also amount to abuse of the process of the Court. In any event, the respondent No.3 is proposed to be adequately

compensated by the petitioners.

11. A useful reference in this context can be made to the judgment of the Supreme Court in the case of ***Gian Singh vs. State of Punjab and another***¹, wherein the Supreme Court has observed as under :

“61..... the criminal cases having overwhelmingly and pre-dominatingly civil favour 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.”

12. In the case at hand, the peculiar circumstances in which the incident occurred, cannot be lost sight of. Cross cases are indeed two versions of the same occurrence. Since the petitioners and respondent No.3 have resolved the dispute comprehensively and have decided to give no objection for quashment of the respective first information reports, lodged at their instance, in our view, the

1 2012 (10) SCC 303

interest of justice would be better sub-served and the abuse of the process of the Court would be avoided by quashing the proceedings. We are, therefore, persuaded to allow the petition, subject to payment of a sum of Rs.1,00,000/- by the petitioners to respondent No.3 by way of compensation, within a period of four weeks.

13. Hence, the following order :

ORDER

The petition stands allowed in terms of prayer clause (a), subject to payment of compensation of Rs.1,00,000/- (Rupees One Lakh only) by the petitioners to respondent No.3, within a period of four weeks. Prayer Clause (a) reads as under :

(a) That this Hon'ble Court be pleased to quash and set aside the impugned FIR No.1240/2020, registered with Chakan Police Station, Taluka Khed, District Pune under section 326 and 323 read with section 34 of the Indian Penal Code along with the chargesheet filed in the said FIR.

(ii) The petitioners shall produce the receipt evidencing the payment of compensation of Rs.1,00,000/- (Rupees One Lakh only) to respondent No.3.

(iii) The petition be listed on 26th October 2021,
for reporting compliance.

Rule made absolute in the aforesaid terms.

[N.J. JAMADAR, J.]

[S.S. SHINDE, J.]