

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

CRIMINAL WRIT PETITION NO. 131 OF 2021

1. Sunny S Punjabi
Aged 36 years, Occupation: Service
Residing at: RC Barrack No. 36,
Room no. 421, Chembur Camp,
Near Sadhu Vaswani High School,
Chembur East, Mumbai- 400074.

2. Appu Gandhi alias Naresh
Ishwarlal Gandhi
Aged 67 years (Senior Citizen)
Occupation Retired
Residing at: RC Barrack No. 36,
Room no. 423, Chembur Camp,
Near Sadhu Vaswani High School,
Chembur East, Mumbai- 400074.

...PETITIONERS

3. Sonu S. Punjabi
Aged 39 years, Occupation: Service,
Residing at: RC Barrack No. 36,
Room no. 421, Chembur Camp,
Near Sadhu Vaswani High School,
Chembur East, Mumbai- 400074.

Versus

1. State of Maharashtra

2. Devendra Hemant Salunkhe
Aged 24 years, Occupation: Service
Residing at: Room No. 62, Indira Nagar,
Dr C G Road, Chembur Camp,
Chembur East, Mumbai 400074.

...RESPONDENTS

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Mr. Vishal K Jagwani a/w. Mr. Pankaj Kandhari for the Petitioners.
Mr. Kevin Gala for Respondent No.2.
Mrs. S.D. Shinde, APP for State.

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

**RESERVED ON: 26th FEBRUARY, 2021.
PRONOUNCED ON: 3rd MARCH 2021.**

ORDER:

1. Learned counsel for petitioners and Respondent No. 2 submits that the petitioners and 2nd respondent have amicably settled the dispute, therefore, the impugned FIR may be quashed.
2. Learned counsel appearing for 2nd respondent has tendered across the bar, the affidavit-cum-no objection on behalf of Respondent No. 2 for quashing the impugned FIR.
3. Respondent No. 2 is present in the Court. We have interacted with 2nd respondent and found that he was in a frightened condition.
4. It appears that the investigation is in progress. Upon perusal of allegations in the FIR, it is alleged that the accused persons jointly assaulted the Respondent No. 2 on his head. After such assault, the blood started oozing from the head of Respondent No. 2 and he was hospitalized. The assault was on vital part i.e. head of 2nd respondent and also he has suffered serious injuries. The alleged offences are serious in nature, therefore, when the investigation is in progress it is not appropriate to quash the FIR on the basis of alleged settlement.

5. The Supreme Court in the case of *The State of Madhya Pradesh Vs. Laxmi Narayan and others*¹ observed that while considering the prayer for quashing the FIR on the basis of settlement, in case of offence under Section 307 of IPC is concerned, the stage of the investigation should be taken into consideration and the investigating officer should be allowed to complete the investigation. The offences alleged in the present impugned FIR are also serious in nature and therefore, it is necessary to allow the investigating officer to complete the investigation.

6. Therefore, at this stage the prayer of the Petitioners to quash the impugned FIR on the basis of alleged settlement stands rejected. Even otherwise on merits the impugned FIR cannot be quashed. The writ petition stands rejected and same stands disposed of accordingly.

7. The observations made herein above are *prima facie* in nature and confined to the adjudication of the present writ petition only. Rejection of this writ petition shall not be construed as an impediment to the petitioners to apply for quashing/discharge in the event of filing of charge sheet by the investigating officer.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)

¹ (2019) 5 SCC 688