

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3636 OF 2021

ABC .. Petitioner

v/s.

XYZ & Anr. .. Respondents

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Mr. Beni Chatterjee, Senior Advocate, a/w. Mr. Anjani K. Singh, Mrs. Saswati Deb and Mr. Pareshtar Parekh, for the Petitioner.

Mr. Waquar Nasir Pathan, a/w. Ms. Yogita Gokhale, for Respondent No.1.

Mr. K.V. Saste, APP, for Respondent State.

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CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.

DATE : 22 DECEMBER 2021

P.C:-

Heard the learned Counsel for the parties. Taken up for disposal.

2. This petition is filed for the following prayer.

“(a) *This Hon’ble Court may kindly quash the FIR with C.R.No. 36 of 2020 filed by Respondent No.1 against the Petitioner registered with Vanrai Police Station,*

District Mumbai on 2 February 2020.”

3. The reason why the names of the parties are masked is because, both, the Petitioner and Respondent No.1 are young Advocates practising in this Court.

4. The FIR was lodged by Respondent No.1 on the allegation that the Petitioner was stalking Respondent No.2 thereby committing offence under Section 354D and 506 of the Indian Penal Code. The petition was filed seeking quashing of the FIR on merits.

5. When the petition came up on board on 15 November 2021, the learned Counsel for the Petitioner and Respondent No.1 was present in person showed inclination to resolve the dispute amicably. Thereafter, the matter was taken up on 21 December 2021. Thereafter, on 22 November 2021 in the Chambers. Again on 14 December 2021, 20 December 2021 in the Chambers. We had extensive interaction with the Petitioner, Respondent No.1, their Advocates and also parents of both the Petitioner and Respondent No.1. The Petitioner and Respondent No.1 have agreed that they will put their past behind and will not contact each other any more. The parents of both the Petitioner and Respondent No.1 assured that they will do their best to ensure that the incidents of past will not recur.

6. The parties agreed to put their understanding in writing

and, accordingly, they have prepared Minutes of the Order, which are tendered in the Court, which we take on record and mark "X". The parties have agreed as under :

MINUTES OF THE ORDER

1. *The Petitioner and Respondent No.1 (hereinafter collectively known as "**the parties**") agree to settle the captioned matter with the indulgence of this Hon'ble Court on the terms and conditions mentioned herein below:*
2. *The Petitioner promises and undertakes before this Hon'ble Court that the Petitioner whether in India or abroad, shall henceforth, not try to contact Respondent No.1 and/or her family, witnesses in the said FIR No. 36 of 2020, her relatives, and close acquaintances in any manner whatsoever, either by any electronic medium/ one time calling applications or sites or otherwise.*
3. *The Petitioner also withdraws all the allegations on Respondent No.1 in the captioned matter.*
4. *Further, the parents of the Petitioner namely xxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxx assured this Hon'ble Court that they shall monitor the actions of the Petitioner, and will do their best to ensure that the Petitioner shall not contact or harass Respondent No.1 and/or her family, witnesses in the FIR C.R. 36/ 2020 dated 02.02.2020, relatives and close acquaintances in any manner whatsoever, either by electronic medium or otherwise at present or in future.*
5. *In view of the above assurances and undertaking, Respondent No.1 also undertakes before this Hon'ble Court that she shall not try to contact the Petitioner and/or his family, his relatives*

and close acquaintances in any manner whatsoever, either by any electronic medium/ one time calling applications or sites or otherwise.

6. *Simultaneously, the parents of Respondent No.1, namely, xxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxx assured this before this Hon'ble Court that they shall monitor the actions of Respondent No.1 and do their best to ensure that Respondent No.1 shall not contact or threaten to cause harm to the Petitioner in any manner whatsoever through any means.*
7. *On the basis of the undertaking given by the Petitioner and his parents in paragraph 2 to 4 Respondent No.1 agrees for quashing of the FIR (C.R. 36/ 2020 dated 02.02.2020) registered at Vanrai Police Station, Mumbai).*
8. *Further, Respondent No. 1 undertakes before this Hon'ble Court that she will not misuse use or share the data, material, including messages and photographs exchanged between the parties against the Petitioner in order to cause prejudice or wrongful harm to the Petitioner.*
9. *Respondent No.1 states that the Court may order the FIR C.R. 36/ 2020 dated 02.02.2020 to be quashed and the police shall take necessary steps with respect to the evidence discovered and collected during the course of the investigation.*
10. *It is agreed between the parties that on the above conditions, the FIR C.R. 36/ 2020 dated 02.02.2020 registered at Vanrai Police Station, Mumbai and consequential actions in terms of prayer clause(s) be quashed by this Hon'ble Court."*

Though the names are given in the consent terms, we have masked them for the purpose of this order. This understanding is signed by the

Petitioner mother and father of the Petitioner and the Advocate, Respondent No.1, mother and father of Respondent No.1 and the Advocate.

7. Considering the statements made in the above understanding, which we accept and that the incident that gave rise to the filing of FIR is not which seriously affects the society at large, and the issue has been resolved with intervention of the parents of the Petitioner and Respondent No.1, we find that case of exercise of extraordinary jurisdiction is made out to quash the FIR. Keeping the FIR and the prosecution pending will embarrass the Petitioner and Respondent No.1 both, who are young practicing advocates of this Court and have their career ahead of them. No purpose would be served in keeping the FIR pending in light of this position.

8. We are informed that the Laptop and phone of the Petitioner is with the police. By consent it is directed that when they will be returned, the police authorities can format the hard-disc of the laptop and factory reset the phone, and handover the same to the Petitioner.

9. Accordingly, the petition is allowed in terms of prayer clause (a).

10. Ordered accordingly.

11. In the peculiar facts and circumstances of the case, since it is a sequitur of the quashing of the FIR, the bail-bond executed in this case is cancelled and the amount be refunded to the Petitioner.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)