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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.4122 OF 2021

Lata Rama Taide and Ors. Petitioners

Vs.

The State of Maharashtra & Anr. Respondents

Mr.Jadhav R. Namdeo for the Petitioners

Mr.Nandkumar V. Sawant for the Respondent no.2

Ms.M.H.Mhatre, A.P.P. for the State

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATED : FEBRUARY 15, 2022

P.C.

1. Heard.

2. The Petitioners have approached this Court for seeking quashment of the FIR No.16/2015 dated 02/02/2015 in Sessions case No.313 of 2017 registered at Kanjur Marg Police Station under section 143, 144, 145, 146, 147, 148, 149, 324 and 323 of the Indian Penal Code.

3. The petitioners and respondent no.2 are residing in Vishwashanti Chs, Kanjurmarg (East), Mumbai 400 042. On 02.02.2015 at about 10.40 a.m., respondent no.2 was proceeding towards his work place. When he reached

Karvenagar Skywalk near Kanjurmarg Railway Station, petitioners accosted him and they started assaulting him by shoes. They also tore the clothes of respondent no.2. After the incident, respondent rushed to the Police Station and lodged F.I.R. against the petitioners.

4. During the pendency of this petition, the Investigating Officer has carried out investigation and filed charge sheet against the petitioners in the court of Sessions. It is contended that the Petitioners and Respondent are residing in the same building. They were having good relations and with the intervention of the other members of the Society, both of them have settled their dispute amicably. Respondent nos.2 filed consent affidavit which is at page 82 of the petition wherein it is affirmed in the affidavit that the petitioners and Respondent are knowing each other since last several years. With the intervention of two sections of people, relatives, family members, friends and respected people of the building and locality, petitioners and Respondent decided to settle the dispute accordingly. Respondent no.2 has given no objection for quashing of Sessions case No.313 of 2017 arising out of F.I.R.No.16/2015 dated 02.02.2015 registered at Kanjur Marg Police Station for the offences punishable under section 143, 144, 145, 146, 147, 148, 149, 324 and 323 of the Indian Penal Code. Respondent no.2 has also affirmed that due to settlement, the prosecution lodged against the Petitioners will be quashed. Respondent no.2 is present before the court. He admitted the contents of his affidavit as to correct. He also stated that he has filed the affidavit on his own free will and

wish. There is no pressure to give consent for quashing of F.I.R. and proceeding filed in pursuance of F.I.R. against the Petitioner.

5. Considering the above facts, we are of the opinion that continuation of proceeding arising out of Crime No.303 of 2016 would be nothing but an act of futility. We are of the opinion that the Petitioner has made out a case for allowing the petition.

6. In these circumstances and especially in view of the law laid down by the Apex Court in the case of ***B.S.Joshi Versus State of Haryana AIR 2003 SC 1386*** we are of the view that no purpose would be served by keeping the criminal proceedings except burdening the Criminal Courts which are pending already overburdened. In that view of the matter and in the interests of Justice, the subject FIR is required to be quashed.

7. In view of the above facts, petition is allowed in terms of prayer clause (a). Prayer clause (a) reads thus:-

“(a) That this Hon’ble Court be pleased to quash the record and proceeding of Session case No.313 of 2017 arising out of F.I.R.No.16/2015 dated 02/02/2015 registered at Kanjur Marg Police Station under section 143, 144, 145, 146, 147, 148, 149, 324 and 323 of the Indian Penal Code.”

(SURENDRA P. TAVADE, J.) (PRASANNA B. VARALE, J.)