

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1093 OF 2022

Rohit Ashok Lot and others. ... Petitioners.

V/s.

The State of Maharashtra and another. ... Respondents.

Mr.Piyush Toshnival i/b. Vivek Arote for the Petitioners.

Mrs.M.H.Mhatre, APP for the Respondent- State.

Mr.Paresh More for Respondent No.2.

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CORAM : **NITIN JAMDAR AND
N.R. BORKAR, JJ.**

DATE : **13 July 2022.**

P.C. :

By this petition, the Petitioners have sought the following relief:

“(b) This Hon’ble Court be pleased to issue appropriate writ, order and/or direction and quash the proceedings of Regular Criminal Case No.1038/2019 pending on the file of 6-II Joint Civil Judge Junior division, JMFC, Nashik arising out of C.R.No.I-423/2019 Dated 10/05/2019 registered at Bhadrakali Police Station, Dist: Nashik against the Present Petitioners for Allegedly Having Committed the Offences Punishable under sections 325 r/w. 34 of Indian Penal Code.”

The reason for seeking quashing of the FIR is that Respondent No.2- Complainant has given his consent. The learned counsel for

the Petitioners and the learned counsel for Respondent No.2 jointly pray that the FIR be quashed by consent of Respondent No.2 as the incident arose out of misunderstanding and does not have implication on the society at large. The learned counsel for the parties state that this Court has power to quash the FIR by consent of the Complainant as laid down in the decisions in the case of *Gian Singh v. State of Punjab*¹ and *Narinder Singh v. State of Punjab*².

2. The learned counsel for the parties state that the Petitioners and Respondent No.2 are related. Respondent No.2 filed an FIR that on 7 April 2019 when he was going on his two wheeler, the Petitioners accosted him and assaulted with fist and blows which resulted in fracture of his nose. On this allegation, the FIR was filed. In the affidavit of consent filed by Respondent No.2, he has stated that they have settled the dispute and he does not wish to prosecute the Petitioners further. The stand of Respondent No.2 is reiterated by the learned counsel for Respondent No.2.

3. The Petitioners are four brothers. Respondent No.2 is their cousin. All are below 30 years of age. They got into a scuffle which resulted in Respondent No.2 filing the FIR. The Respondent No.2 has now filed an affidavit stating that the dispute between the family has been resolved and all want to settle in life and do not wish to carry the grudge any further.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

4. According to us, this incident does not have large scale repercussion on the society. The injury is also not serious nor any weapon has been used. The Petitioners and Respondent No.2 are related. Keeping the prosecution pending in spite of consent affidavit of Respondent No.2 will be a needless harassment and it is not likely to result in conviction. This fact situation falls within the law laid down by the Supreme Court in the cases of *Gian Singh* and *Narinder Singh*.

5. As a result, the petition is allowed in terms of prayer clause (b).

6. The Petitioners will pay Rs.5,000/- each to the Maharashtra Police Welfare Fund (A/c No.914010029005759, IFSC No.UTIB0000060) within four weeks. The order passed today is conditional upon the payment.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)