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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.912 OF 2022

Bhausahab Sopan Borse .. Petitioner
v/s.
The State of Maharashtra & Ors. .. Respondents

....

Mr. Suresh M. Sabrad, for the Petitioner.

Mrs. M.H. Mhatre, APP, for State.

Mr. Amey C. Sawant, for Respondent No.2.

....

CORAM: NITIN JAMDAR &
N.R. BORKAR, JJ.

DATE : 13 JULY 2022.

P.C:-

By this petition, the Petitioner is seeking for the following relief:

“(a) This Hon’ble Court be pleased to quash and set aside F.I.R. bearing C.R. No.I-176 of 2018 registered with Chandwad Police Station, Nashik Rural for the offence punishable under Section 353, 332, 324 of Indian Penal Code upon the complaint lodged by Respondent No.2 and

further be pleased to quash charge sheet bearing No.119 of 2018 dated 27.12.2018.”

2. The reason given for quashing the FIR lodged by Respondent No.2 is that Respondent No.2 has given his consent and has filed consent affidavit. The learned Counsel for the Petitioner submits that this Court, even though FIR refers to a cognizable offence, has power to quash the FIR in the proceedings in certain circumstances and relies on the decision of the Supreme Court in the case of *Gian Singh vs. State of Punjab and Another*¹ and *Narinder Singh and Others vs. State of Punjab And Anr.*².

3. Though it is correct that the Court is vested with the power to quash the FIR by consent of the complainant, ultimately, the exercise will depend on facts of each case. The impact of the incident on the society is also one of the germane criterion.

4. In the present case, complainant, who has filed the FIR, was working as Head Master of a school. On the date of the incident, he arrived in the school and was standing on the ground in the school premises. Other teachers, including lady teachers, were present in the school. That time the Petitioner accosted Respondent No.2 as to why he had scolded his child and assaulted him on his head with a kada. Then the Complainant was assaulted with fist and blows and was

1 (2012) 10 SCC 303

2 (2014) 6 Supreme Court Cases 466

threatened with life. The Complainant received grievous injury on the head and had to take medical treatment. This incident took place in full view of the teachers and others in the school. The trial has now progressed. Respondent No.2 has given his evidence where he has stuck to his version. In the trial seven witnesses so far have been examined.

5. Today, before the Court, Respondent No.2 has filed an affidavit wherein he refers only to the settlement between the Petitioner and him with the intervention of senior members.

6. We are not inclined to quash the FIR merely because of the consent affidavit. A head of the school was assaulted in the school in full view of the staff by a parent of the student. He has suffered serious injuries. The injury certificate is on record, which refers to grievous injury on the head. This incident of assaulting the Head Master by a parent in the school premises and causing grievous injury on the head will have a lasting and damaging impact on the school discipline and the society at general. Considering the stage at which the trial is, nature of the impact this crime would have on the society, we do not find that a consent affidavit can be a reason to quash the proceedings exercising the extraordinary powers of the Court. Even otherwise there is no case made out on merits.

7. The writ petition, therefore, cannot be entertained and is, accordingly, rejected.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)