

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 921 OF 2022

Tejal Ashok Potdar. ... Petitioner.

V/s.

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

WITH
CRIMINAL WRIT PETITION NO. 1107 OF 2022

Mrs.Navneeta Anad Banan. ... Petitioner.

V/s.

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

Mr.Sandeep Karnik for the Petitioner in WP No.921/2022 and for
Respondent No.2 in WP No.1107/2022.

Mr.Sujay Gawade with Sumeda Dhopate and Mudita Pawar i/b.
Shree & Co. for the Petitioner in WP No.1107/2022 and for
Respondent No.2 in WP No.921/2022.

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

Digitally
signed by
SANJAY
KASHINATH
NANOSKAR
Date:
2022.07.14
12:37:13
+0530

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

DATE : **29 June 2022.**

P.C. :

These two petitions arise from FIRs lodged by the
respective Respondent- Complainants which are cross FIRs and,
therefore, they are taken up for consideration together. The
Respondent- Complainants in both these petitions have given their
consent for quashing of both the FIRs and a joint request is made

by both the Petitioners and Respondent- Complainants in their respective petitions that the FIRs be quashed by consent.

2. Writ Petition No.921/2022 seeks following prayers:

“(c) This Hon’ble Court may as per Article 226 r/w Section 482 of Criminal Procedure Code be pleased to quash and set aside C.R.No.41 of 2022 lodged against the Petitioner for offence punishable under Section 307, 354, 323, 504, 34 of Indian Penal Code on such terms and conditions as this Hon’ble Court may deem fit and proper in the circumstances of the case;

(c)(i) This Hon’ble Court may as per Article 226 r/w. 482 of the Criminal Procedure Code be pleased to quash and set aside the chargesheet filed against the Petitioner bearing Summons case no.11592/2022 pending before the Learned Judicial Magistrate Railway Court Kalyan, Dist: Thane arising out of F.I.R. No.41 of 2022 registered with Kalyan Railway Police Station for the offence punishable U/s. 323, 504 of the Indian Penal Code on such terms and conditions as this Hon’ble Court may deem fit and proper.”

Writ Petition No.1107/2022 seeks following prayer:

“(a) That this Hon’ble Court may please to any other appropriate writ, order or direction in the nature of Writ of Certiorari thereby quashing and/or setting aside the impugned FIR bearing CR No.40/2022 dated 13.01.2022 registered with Respondent No.1- Police Station, which is annexed as Exh. A hereto.;

(a1) This Hon’ble Court be pleased to quash and set aside the chargesheet filed against the petitioner bearing no.255/2022 pending before the learned judicial magistrate railway court Kalyan, Dist: Thane arising out of F.I.R.No.40 of 2022 registered with Kalyan Railway Police station for offence punishable under section 323, 504 of the Indian Penal Code on such terms and conditions as this Hon’ble court may deem fit and proper.”

The incident occurred on 12 January 2022 in a local train which was bound for Badlapur. The Petitioners were traveling in a crowded compartment of the train, they got into a verbal altercation when due to jolt received by the train, the Petitioners bumped against each other. The verbal altercation thereafter translated in physical fight which led to both the Petitioners (Complainants in the concerned petitions) to file FIR.

3. The learned APP, on instructions, informed that section 307 of the Indian Penal Code is dropped. Both the Respondents have filed their affidavits of consent and have stated that they are young working women travel about 60 to 70 kms. from their residence and due to the stress an altercation took place and they have over-cautioned each others for the same. This stand is reiterated by the learned counsel in the Court. Learned counsel state that FIRs need to be quashed in the light of law laid down by the Supreme Court in the case of *Gian Singh v. State of Punjab*¹.

4. We are informed that Petitioner in Writ Petition No.921/2022 is working in the Revenue Department, Collector Office, Thane whereas the Petitioner in Writ Petition No.1107/2022 is working in a private establishment.

5. Having considered the facts and circumstances, we find that the joint request made is meritorious. In a crowded train

¹ (2012) 10 SCC 303

compartment, because of the jolt received, the Petitioners bumped against each other which led to a fight amongst them. The statements of the other passengers also corroborate this position. The reasons given by the learned counsel that due to the stress of travelling long distance in the evening after work in a crowded train, the Petitioners lost their temper cannot be said to be without substance. The Petitioners have filed consent affidavits and the issue is resolved and keeping the prosecution pending would be a harassment to both the parties and it is not likely to result in conviction. Accordingly, we find that the case falls within the parameters laid down by the Supreme Court in the case of *Gian Singh* and both the petitions deserve to be allowed.

6. Writ Petition No.921/2022 is allowed in terms of prayer clause (c) and (c)(i) and Writ Petition No.1107/2022 is allowed in terms of prayer clause (a) and (a1).

7. The Petitioners in both the petitions will pay Rs.10,000/- each to C.P. Mumbai Railway Kalyan Nidhi Sanstha (Account No.50200064409824, IFSC: HDFC0000060, Fort Branch) within a period of six weeks.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)