

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1011 OF 2022

Vishal Gupta

...Petitioner

VS.

1. The State of Maharashtra

2. Sharmila Montie Thanki

...Respondents

Mr. Imran Farooqui - Advocate for the Petitioner

Ms. Neelam Ghorpade - Advocate for Respondent No. 2

Mr. J. P. Yagnik - APP for Respondent-State

**CORAM : REVATI MOHITE DERE &
 S. M. MODAK, JJ.**

DATE : 29th SEPTEMBER, 2022

P. C. :-

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the Respondent No.1-State. Ms. Neelam Ghorpade waives notice on behalf of the Respondent No. 2.

3 By this petition, the Petitioner seeks quashing of the FIR, bearing C.R. No. 974 of 2020 registered with the Vanrai Police Station, Mumbai, for the alleged offences punishable under Sections 354(C), 354(D), 509, 500 of the Indian Penal Code and under Section 66(e) of the Information and Technology Act. Quashing is sought on the premise, that the Petitioner and Respondent No. 2 (original complainant) have amicably settled their dispute.

4 Perused the papers. It appears that the Petitioner and the Respondent No. 2 are staying in the same society. It appears that as the Respondent No. 2 had not worn her mask while entering the society gym, the Petitioner took her photographs and circulated the same on the society whatsapp group. Pursuant to the same, the Respondent No. 2 lodged the aforesaid C.R. alleging the aforesaid offences. After investigation, charge-sheet has been filed in the said case and the case is presently pending before the learned Metropolitan Court, Borivali, Mumbai.

5 It appears that in the interregnum, during the pendency of the proceedings, the parties have amicably settled their dispute. The Respondent No. 2 has filed her affidavit dated 03/03/2022 duly affirmed before the Notary. The said affidavit is at Exh. 'B' at page no. 15 of the petition. In the said affidavit, the Respondent No. 2 has stated that she has settled the matter amicably with the Petitioner and she has no objection for quashing of the aforesaid C.R., as well as, proceeding pending before the Borivali Court. The Respondent No. 2 is present in-person. She re-iterates what is stated by her in her affidavit. Learned counsel for the Respondent No. 2 has tendered a self attested xerox copy of the Aadhar card of the Respondent No. 2. The same is taken on record. Learned Counsel for the Respondent No. 2 has identified the Respondent No. 2 and the learned APP has verified the original Aadhar card of the Respondent No. 2.

6 Considering the nature of dispute, the fact that the parties live in the same society, the amicable

settlement between the parties and having regard to the judicial pronouncements of the Apex Court in the case of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², there is no impediment in allowing the petition.

7 The petition is accordingly allowed and the FIR bearing, C.R. No. 974 of 2020 registered with the Vanrai Police Station, Mumbai, for the alleged offences punishable under Sections 354(C), 354(D), 509, 500 of the Indian Penal Code is quashed and set-aside and consequently, the proceeding arising from the C.R. which is pending before the learned 17th Metropolitan Magistrate Court, Borivali, Mumbai being R.C.C. No. 3529/PW/2022 is also quashed and set-aside.

8 Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

9 Petitioner to pay cost of Rs. 10,000/- to the Kirtikar Law Library within three weeks from today. Subject to the said deposit, aforesaid petition is allowed.

10 Stand over to **11/11/2022 for recording compliance of the Order** of deposit.

11 All concerned to act on the authenticated copy of this order.

[S. M. MODAK, J.]

[REVATI MOHITE DERE, J.]