

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1619 OF 2021

Mohammad Umar Shaikh and others. ... Petitioners.
V/s.
The State of Maharashtra and another. ... Respondents.

WITH
CRIMINAL WRIT PETITION NO. 1620 OF 2021

Mr.Abdur Rahman Khan and another. ... Petitioners.
V/s.
The State of Maharashtra and another. ... Respondents.

Mr.Nilesh M. Wable i/b. S.Mhatre for the Petitioners in WP-1619/2022 and for Respondent No.2 in WP-1620/2022.
Mr.Dilip B. Shinde for the Petitioners in WP-1620/2022 and for Respondent No.2 in WP-1619/2022.
Mrs.S.D.Shinde, APP for the Respondent-State.

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

DATE : **24 June 2022.**

P.C. :

These two petitions are filed to quash the FIRs lodged by the Petitioners against each other. These petitions involve cross FIRs and the Petitioners and Respondent- Complainants are interchanged. The learned counsel for the Petitioners and the Respondents- Complainants in these petitions state that the parties

have arrived at settlement and have agreed to give consent to quash the FIRs lodged by them. Both the petitions are taken up for consideration together.

2. In WP No.1619/2021, the Petitioners have prayed for the following relief:

“(a) This Hon’ble High Court be pleased to quash and cancel the FIR filed by the complainant vide C.R. No.41/18 with Shahu Nagar Police Station on 8.2.2018 for the alleged offences under section 326, r/w 34 of Indian Penal Code.”

In in WP No.1620/2021, the Petitioners have prayed for the following reliefs:

“(a) This Hon’ble High Court be pleased to quash and cancel the FIR filed by the complainant vide C.R. No.42/18 with Shahu Nagar Police Station on 8.2.2018 for the alleged offences under section 326, r/w 34 of Indian Penal Code.”

3. Both these petitions are filed on the ground that the Complainants in both the FIRs have given their no objection for quashing the FIRs as the matter is settled between the parties. In these petitions, the Respondent Complainants have filed their affidavits of consent. The FIRs lodged in these petitions relate to the same incident that took place on 7 February 2018. As per the FIR in Writ Petition No.1619/2021, the case of the Complainant was

that the Petitioners holding a grudge against the Complainant of the earlier quarrel caught hold of the Complainant and assaulted the Complainant with a knife and fist and blows. In the FIR in respect of Writ Petition No.1620/2022, it was the allegation that on that day while quarrel was being settled, the Petitioners caught hold of the Complainant and assaulted him with knife on the back. The learned counsel for the parties state that the incident arose out of misunderstanding and the parents of the parties held a meeting together and resolved the issue and both are happily staying in the locality. The learned counsel, therefore, submit that this incident does not have large-scale implications on the society and in the light of the law laid down by the Supreme Court in the case of *Gian Singh v. State of Punjab*¹, the FIRs can be quashed with the consent of the respective Complainants.

4. We have perused the FIRs and affidavits of consent and the injury certificates. Though knife was used, the injuries are not grievous injuries. The incident seems to have taken place during the quarrel. The Petitioners in both the petitions are residing in neighbourhood and have decided to put the past behind and reside peacefully in the locality. We have not been shown that the Petitioners have any antecedents. Considering the incident which was a quarrel between these Petitioners which has now been resolved, it cannot be said to have damaging effect on the society. If the FIRs are not quashed, the settlement arrived at will be disrupted and

¹ (2012) 10 SCC 303

acrimony may continue. In the light of the stand taken by the Complainants, it is not likely that the FIRs will result in conviction. Therefore, considering the position in the totality, we are of the opinion that a case is made out for exercise of extra ordinary jurisdiction to quash the FIRs in both the petitions.

5. Accordingly, Writ Petition No.1619/2021 is allowed in terms of prayer clause (a) and Writ Petition No.1620/2021 is allowed in terms of prayer clause (a).

6. The Petitioners in both the petitions will pay Rs.10,000/- each to the Mumbai Police Welfare Fund, Mumbai within a period of six weeks from today and submit a receipt in the Registry. This order is conditional upon the payment as above.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

SANJAY
KASHINATH
NANOSKAR

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by SANJAY
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