

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1303 OF 2019**

Shri Rakesh Balkrishna GuravPetitioner

Versus

The State of Maharashtra and anr.Respondents

Mr. Vikas B. Shivarkar, advocate for the petitioner.

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

Mr. Akhilesh Singh, advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATE : 11th FEBRUARY, 2022.

P.C. :

1. Heard Mr. Shivarkar, learned counsel for the petitioner, Mr. Saste, learned APP for the State and Mr. Singh, learned counsel for respondent No.2.

2. The petition is filed for seeking quashment of the FIR bearing C.R.No.75 of 2019 registered with Kurar Police Station on 17th February, 2019, at the instance of respondent No.2, for offences punishable under Section 504, 506(II) of the Indian Penal Code as well as Section 37(1) and 135 of the Mumbai Police Act.

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3. Perusal of the copy of the FIR placed on record at Exhibit – A, page 11, shows that respondent No.2 who is the resident of Malad Suburbs of Bombay was removing his vehicle from parking lot in the late hours of night. The petitioner, who was working there at the relevant time hurled abuses and, by raising voice, started arguing, and then, by taking out knife from his pocket, gave threats of life to respondent No.2. Due to hue and cry as people gathered on the spot, the petitioner fled away from the spot. On the basis of these statements, a report was lodged at the police station and, accordingly, crime was registered.

4. It is submitted before this Court that during the pendency of the petition, the parties have settled their dispute. Respondent No.2 has filed an affidavit-in-reply in this Court on 25th January, 2022. It is stated by respondent No. 2 in the said affidavit that that the dispute between him and the petitioner arose out of misunderstanding and he does not wish to pursue any legal proceedings against the petitioner in the subject matter. Accordingly, respondent No.2 has given his no objection for quashing the FIR and Criminal Case No.1420/PW/2019.

5. Mr. Shivarkar, learned counsel for the petitioner and Mr.Singh, learned counsel for respondent No.2 submitted that the petitioner as well

as respondent No.2 are young persons and they are doing small jobs to earn their livelihood and are desirous of putting an end to the criminal case as they no longer carry any bitterness.

6. Considering the above facts and especially, in view of the law laid down by the Apex Court in the case of **Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582]**, we find that no purpose would be served by keeping the FIR and the proceedings arising out the said FIR alive, except burdening the Criminal Courts which are already overburdened. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we are of the considered view that there is no impediment in quashing and setting-aside the said FIR and the proceedings arising out of it.

7. Since the police machinery was set in motion by the parties for settling their dispute and the incident in question happened at the spur of the moment as well as taking into consideration that the petitioner as well as respondent No. 2 through their respective counsel submitted before this Court that they, as a matter of repentance, would like to render community service as may be directed by this Court, we are inclined to grant the relief sought for in this petition.

8. Thus, we are of the opinion that learned counsel for the petitioner has made out a case for allowing the petition. Accordingly, the petition is allowed. The FIR bearing C.R.No.75 of 2019 registered with Kurar Police Station on 17th February, 2019, at the instance of respondent No.2, for offences punishable under Section 504, 506(II) of the Indian Penal Code as well as Section 37(1) and 135 of the Mumbai Police Act and criminal case No.1420/PW/2019 pending on the file of learned Metropolitan Magistrate, Borivali Mumbai are quashed and set aside, subject to the petitioner and respondent No. 2 providing community service organized by Afroz Shah Foundation which is a philanthropic foundation set up to carry out philanthropic activities and having its registered office at 601, Reliable Business Centre, Anand Nagar, Opp. Heera Panna Mall, Oshiwara, Jogeshwari West, Mumbai – 400 102.

9. The Secretary of the Foundation shall allocate appropriate works/services to the Petitioner and Respondent no. 2 in their Foundation which will be performed/rendered by the Petitioner and Respondent no.2 as part of community service on every 2nd and 4th Sunday of each month from 10.00 am to 01.00 pm for a period of 6 months i.e. for 12 Sundays consecutively. The petitioner and respondent no.2 shall obtain a certificate from the Secretary of the Foundation of having rendered community service satisfactorily for the period of six months and place

the same on the record of this petition within a month after completion of the period of six months. Failing to do so, the order quashing and setting-aside the FIR and the criminal proceedings shall stand recalled automatically and petition shall stand dismissed automatically without further reference to the Court and order quashing the FIR and criminal proceedings shall be treated as *non-est*.

10. With the above directions, the petition stands disposed of.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)