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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 360 OF 2022**

Sarfaraz M. Khan and ors. ... Applicants
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. N.K. Sharma for the Applicants.
Mr. J.P. Yagnik, APP for the Respondent No.1 – State.
Ms Bimla P. Choumal for the Respondent No.2.

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

DATE : 24 JUNE 2022.

P.C.

. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.1152 of 2021 (hereinafter referred to as “FIR”, for short) dated 5 September 2021 registered at Sakinaka Police Station, Mumbai for the offence punishable under Sections 326, 452, 427, 143, 147, 149, 506(2), 354, 323 and 504 of the Indian Penal Code.

2. According to the prosecution, on 3 September 2021 at about 15:20 hrs., the present Applicants formed an unlawful assembly; trespassed into the house of Respondent No.2/original

Complainant; assaulted the Complainant and his family members; threatened them and ransacked their house on account of previous dispute.

3. The learned Counsel for the Petitioners and the learned Counsel for the Respondent No.2 jointly submit that the parties have amicably settled the dispute and thus no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. It is submitted that the Respondent No.2 and the Applicants are relatives. It is submitted that considering the facts and circumstances, the FIR may be quashed.

4. The learned APP, on instructions, submits that the Applicants do not have criminal antecedents.

5. The Respondent No.2 has filed consent affidavit dated 23 March 2022. Respondent No.2 has stated that the Applicants are his relatives. The Respondent No.2 has stated that they have amicably settled the dispute and he has no objection if the FIR in question is quashed in view of the settlement.

6. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*¹ has held :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court

¹ (2014) 6 SCC 466

would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the *Prevention of Corruption Act* or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

7. We have examined the facts of the present case in the light of principles laid down by the Hon’ble Supreme Court in *Narinder Singh’s* case. Admittedly, the Respondent No.2 and the Applicants are relatives. The incident appears to be the outcome of some misunderstanding. There are no criminal antecedents. In view of the settlement, the witnesses are not going to support the prosecution case and therefore, the possibility of conviction is remote and bleak. Considering these facts and circumstances, in our view application deserves to be allowed. Hence, the Application is allowed in terms of prayer clause (A), which reads thus:

“A. That Hon’ble Court be pleased to quash FIR bearing C.R. No. 1152/2021 registered at the Sakinaka Police Station, Mumbai for the offence punishable under sections 326, 452, 427, 143, 147, 149, 506(2), 354, 323 and 504 of the Indian Penal Code on such terms and conditions as this Hon’ble Court deems fit.”

8. The Applicants will pay amount of Rs.25000/- to the Police Welfare Fund viz. “*Mumbai Police Welfare Fund Account No.465010100008693 IFC code: UTIB0000465*” within six weeks from today and this order is conditional upon payment.

9. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)