

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

CRIMINAL APPLICATION NO. 389 OF 2022

1. Shafi Ibrahim Shah
2. Rashida Shafi Shah
3. Zuber Shafi Shah @ Sahil ... Applicants
Versus
1. The State of Maharashtra
2. Mohd. Farooque Ibrahim Shah ... Respondents

Mr. Viraj Shelatkar, for the Applicants.

Mr. K. V. Saste, APP for the Respondent No.1 – State.

Mr. Ganesh Gole a/w Mr. Arif Ali, for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 13th DECEMBER, 2022.

P. C. :

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.

3 Learned A.P.P waives notice on behalf of the respondent No.1–

State and learned Counsel Mr. Ganesh Gole waives notice on behalf of the respondent No.2.

4 By this Application, preferred under Section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashing and setting aside of the FIR, bearing C.R.No. 385 of 2021, registered with the Virar Police Station, Palghar, for the alleged offences punishable under Sections 326, 504, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

5 Perused the papers. Admittedly, the parties are interse related. The applicant No.1 and the respondent No.2 are real brothers. According to the respondent No. 2, the incident took place on 27th April, 2021. The incident took place when he and his sons Abid and Rehan were in the office. It appears that on 27th April, 2021, the respondent No.2's son Abid had disclosed to his father i.e. respondent No.2 that the applicant No.1 had abused and threatened him, on the car parking issue. It appears that pursuant thereto, the respondent No.2 confronted the applicant No.1. It is alleged that

the applicants abused and assaulted the complainant and his son Abid and Rehan with iron rod. It is alleged that another person by name, Subroto, Abid's friend, tried to intervene and he too was allegedly assaulted in the said incident. Pursuant thereto, the respondent No.2 lodged the aforesaid FIR as against the applicants alleging the aforesaid offences.

6 After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Judicial Magistrate, First Class, Vasai, being R.C.C. No. 1528 of 2022.

7 In the interregnum, during the pendency of the aforesaid C.R., the parties, who are interse related, amicably settled their dispute. In addition to the aforesaid C.R., there were two other C.Rs. registered at the instance of the applicant No.1 as against the respondent No.2 i.e. C.R. No. 832 of 2021 and C.R. No. 384 of 2021 with the Virar Police Station, Palghar. In view of the amicable settlement between the parties, this Court has quashed both the C.Rs. with the consent of the complainant therein i.e. the applicant No.1 in the present Application.

8 As far as the present C.R. is concerned, four persons are alleged to have been assaulted i.e. respondent no.2, Abid, Rehan and one Subroto. As far as Rehan and Subroto are concerned, their injury certificates have not been produced by the prosecution nor annexed to the charge-sheet. As far as the respondent No.2 is concerned, he is alleged to have been assaulted on his head. The injury certificate shows that the respondent No.2 has sustained CLW on his head. Although, the doctor has stated that the injury is grievous, prima facie, the said injury cannot be classified as grievous, in view of Section 320 of the Indian Penal Code. As far as the injury of Abid is concerned, his injury certificate shows that he had sustained a CLW on his head. The said injury is stated to be a simple injury.

9 The respondent No.2, his son Abid, son Rehan and Subroto have all filed their respective consent affidavits giving their no objection for quashing of the FIR registered vide C.R.No. 385 of 2021. In the said affidavits it is stated that they are interse related and that they have amicably settled their dispute.

10 Respondent No.2- complainant, Abid, Rehan and Subroto are present in the Court. On being questioned, they re-iterate what is stated by them in their affidavits. They state that they have no objection for quashing of the said FIR against the applicants. Learned counsel for the respondent No. 2 has tendered photo copies of Aadhar Cards of all the aforesaid four persons i.e. respondent No.2, Abid, Rehan and Subroto duly attested by the said persons. The photo copies of the Adhar Cards are taken on record and the originals are verified by the learned APP. Learned Counsel for respondent No.2 has identified all the four persons.

11 Considering the nature of dispute, the relations between the parties, the amicable settlement between the parties and the affidavits of the respondents, no useful purpose would be served by keeping the proceeding pending against the applicants.

12 The Application is accordingly allowed. The FIR bearing C.R. No. 385 of 2021 registered with the Virar Police Station, Palghar, as against the applicants and consequently, the proceeding pending before the learned Judicial Magistrate First Class Vasai

being R.C.C. No. 1528 of 2022 are quashed and set aside.

13 The applicants to deposit a sum of Rs. 5,000/- each with Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060, as costs. The said cost to be deposited within two weeks from uploading of this order.

14 Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

15 The above order is subject to costs being deposited as stated aforesaid.

16 List on 16th January, 2023, under the caption 'for compliance'.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.

REKHA
PRAKASH
PATIL

Rekha Patil

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Digitally signed by
REKHA PRAKASH
PATIL
Date: 2022.12.28
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