

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.611 OF 2022**

Radhakant Muniji Yadav	]	Applicant
Vs.		
1. The State of Maharashtra	]	
2. Jaya Satnamsingh Tiwana	]	Respondents

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Mr. Rohan Hogle, for Applicant.

Mr. Y.M. Nakhwa, A.P.P, for Respondent No.1 -State.

Mr. Faizal Shaikh i/b Rizwan Merchant & Associates, for Respondent No.2.

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

DATE : 15th DECEMBER, 2022.

ORDER: [Per Prithviraj K. Chavan, J.]:

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties, the application is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1-

State and Mr. Shaikh, learned Counsel waives notice on behalf respondent No.2-Original Complainant.

3. The applicant herein has invoked inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C") for quashing the First Information Report (for short "F.I.R") registered vide C.R. No.343 of 2021 dated 20th May 2021 with the Bangur Nagar Police Station, Borivali, Mumbai for the alleged offences punishable under sections 354, 323 and 504 of the Indian Penal Code (for short 'I.P.C'). Consequently, the charge-sheet bearing C.C. No.2389/PW/2021 pending before the learned Metropolitan Magistrate, 68th Court at Borivali. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Facts are as follows:

The applicant is an employee of a small restaurant situate next to Shop No.3 of Chairanjit Singh Tiwana . On 20th May, 2021, around 3.00 p.m, when respondent No.2 came to Shop No.3 on her bike, she noticed two to three persons eating "*Vada*

Pav" and one person washing hands and rinsing his mouth on the roadside. It was period of Covid-19 pandemic. Respondent No.2 parked her bike on the side of the road and asked the applicant as to why he is doing such an unhygienic act. She entered into his hotel and she saw things were being carried in unhygienic manner. Samosas were being deep fried inside the shop. It is further alleged that the respondent No.2 entered into hotel and inquired about licence of the applicant. The applicant stood in front of her leaving the Samosas in the frying pan. At that time, there was an altercation between them. It is alleged that respondent No.2 asked the applicant as to why he had pushed her. The applicant slapped her and pushed her out of the hotel. The applicant stated that he has no intention to outrage the modesty of the respondent No.2. The alleged incident took place in a spur of the moment. Quashing is sought on the premise that the parties have amicably settled their dispute.

5. There is a cross F.I.R filed by the applicant as against the respondent No.2 i.e C.R. No.448 of 2021 registered with the

Bangur Nagar Police Station, Borivali, Mumbai for the alleged offences punishable under sections 452, 324, 323, 504, 506, 427, 380 r/w 34 of the Indian Penal Code.

6. Learned Counsel appearing for the applicant submits that the parties have amicably settled their dispute and as such, the respondent No.2 has no objection if C.R. No.343 of 2021 registered against the applicant is quashed and set aside, in view of the amicable settlement between them.

7. Learned Counsel appearing for the respondent No.2 has tendered an affidavit of the respondent No.2 dated 9th December, 2022 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Mumbai. The said affidavit is taken on record. Learned Counsel for the respondent No.2 has tendered photostat copy of the Aadhar Card of the respondent No.2. The same is taken on record. The respondent No.2 is present in the Court and she reiterates the contents of the said affidavit. Learned Counsel appearing for the respondent No.2

identifies the respondent No.2. Learned A.P.P has also verified the original Aadhar Card of the respondent No.2.

8. In view of the same, the respondent No.2 has no objection for quashing of C.R. No.343 of 2021 registered as against the applicant. On being questioned, the respondent No.2 reiterates what is stated by her in the affidavit and that she has no objection to quashing of the aforesaid C.R.

9. Having considered the nature of the allegations, nature of the dispute, amicable settlement between the parties, affidavit of the respondent No.2 and the judicial pronouncements of the Apex Court in **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**², there is no impediment in allowing the application.

10. The application is accordingly allowed and C.R. No.343 of 2021 registered with Bangur Nagar Police Station, Borivali as against the applicant for the alleged offences punishable under

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

sections 354, 323 and 504 of the Indian Penal Code is quashed and set aside. Consequently, the charge-sheet bearing No.CC. No.2389/PW/2021 pending before the learned Metropolitan Magistrate, 68th Court at Borivali is quashed and set aside.

11. Rule is made absolute in the aforesaid terms and the petition is disposed of accordingly.

12. Applicant to deposit costs of Rs.10,000/- with the **Mumbai Police Welfare Fund bearing Account No.465010100008693, I.F.S.C No.UTIBO0000465** within three weeks from today.

13. Stand over to **18th January, 2023**, for recording compliance of the order directing deposit of costs.

14. All the parties to act upon the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]