

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

CRIMINAL WRIT PETITION NO.2576 OF 2022

Mr Neil K. White
Indian Inhabitant, Aged 55 years,
Occ: Business, Having address
at G, Scheherazade building,
Opposite Fariyas Hotel, Colaba,
Mumbai-400 005.

... Petitioner.

Versus

1. State of Maharashtra
Through Colaba Police Station
Mumbai -400 001, Maharashtra

2. Mr Kedar A. Purav
Age not known, Occ: Advocate
Residing at 16, Siddhivinayak
Society, Next to Siddhivinayak
Temple, S.K. Bhole road,
Dadar (W), Mumbai-40028. ... Respondents.

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Mr Aabad Ponda, Senior Counsel for the Petitioner.

Mr Y.M. Nakhwa, APP for the State.

Ms Smita Gaidhani, for Respondent No.2.

...

**CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.**

DATE : 1 DECEMBER 2022.

ORDER (Per R. N. Laddha, J.)

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable forthwith with the consent of and at the request of the learned Counsel for the parties.

3. By this writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the Petitioner seeks quashing of FIR No.104 of 2021 dated 29.4.2021 registered with Colaba Police Station, Mumbai for the offence punishable under Sections 289 of the Indian Penal Code.

4. It is the case of prosecution that on 29.4.2021 at about 10.15 a.m. at Kala Ghoda the window behind the driver's seat of the motor vehicle bearing registration No.MH-01-BB-8230 was suddenly rolled down and a dog peeped out of the window and bit the Respondent No.2 on his right arm. As the signal turned green the Petitioner drove away.

5. Mr.Aabad Ponda, learned Senior Counsel appearing on behalf of the Petitioner and Ms Smita Gaidhani, learned Counsel for the Respondent No.2 jointly submit that the parties have amicably settled the dispute. It is submitted no purpose would be served by keeping the prosecution alive, in view of the settlement arrived between

the parties. The learned Counsel for the parties submit that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the cases of ***Gian Singh Vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors Vs. State of Punjab & Anr.***²

6. The learned Counsel for the Respondent No.2 tendered the Consent Terms duly signed by the Petitioner and Respondent No.2. It is stated in the Consent Terms that the Respondent No.2 has no objection if the FIR and the criminal case in question are quashed against the present petitioner in view of the settlement arrived between the parties. The Petitioner has filed the Affidavit dated 1.12.2022 and tendered his unconditional apology to Respondent No.2 and expressed his regret for the inconvenience, discomfort and hurt that has been caused to him. The Consent Terms and the Affidavit of the Petitioner are taken on record. Respondent No.2 is present in person. On being questioned, he reiterated what was stated in the Consent Terms. Further, he stated that he has no objection if the FIR and the consequent criminal case are quashed against the present petitioner in view of the settlement arrived between them.

7. We have examined the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in

1 (2012)10 SCC 303

2 (2014)6SCC 466

Gian Singh's case (supra). In view of the settlement between the parties, Respondent No.2 is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. The dispute also does not have any ramifications on Society at large. Nothing fruitful will, therefore, come out of the prosecution in question. Considering these facts and circumstances, we see no difficulty in quashing the FIR. The petition is, therefore, allowed. Consequently, the impugned FIR and consequent criminal case are quashed and set aside.

8. Learned Counsel for Respondent No.2 to file his Vakalatnama, if not filed, within two weeks of the uploading of this order.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.