

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

WRIT PETITION NO. 3037 OF 2021

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Ishtiyak Adalat Shah and Ors ...Petitioners

Versus

The State of Maharashtra & Anr ...Respondents

- Mr. Niranjan Mundargi a/w Dilip H. Shukla i/by Yash Asso for the Petitioners.
- Mr. K. V. Saste, APP, for the Respondent – State.
- Ms. Kinnari i/by Mr. S.G. Shetty for Respondent No. 2.

**CORAM : PRASANNA B. VARALE &
S.P. TAVADE, JJ.**

DATE : FEBRUARY 17, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. **Rule.** Rule made returnable forthwith. With the consent of learned Counsel appearing for respective parties, heard finally.

3. The Petitioners are before this court seeking quashment of the FIR lodged at Taloja Police Station for commission of offences punishable under Sections 323, 326 read with Section 34 of IPC. The Respondent

No. 2 who is the original complainant Shakil Shah is supporting the prayer for quashment.

4. Perusal of report placed on record show that the Petitioners and the Respondent No. 2 were the partners in scrap business and were sharing equal profit. Sometime before the date of incident, the Petitioner and the Respondent No. 2 decided to part their ways. Perusal of the report further show that though the Respondent No. 2 was helping the Petitioner in his independent business venture, the Petitioner was carrying some grudge against the Respondent No. 2. This grudge resulted in the incident dated 23rd May, 2021 which took place in the late hours of the day i.e. nearly 07.30 to 08.00 pm. As per the report, the Petitioners reached on the spot on two vehicles, namely 1 baleno car and another a motorcycle. The Respondent No. 2 was subjected to physical assault and suffered injuries.

5. Learned APP made available the papers of investigation for our perusal. The perusal of those papers show that the Respondent No. 2 was subjected to medical treatment at MGM medical college and hospital

and had received nearly 7 injuries. Out of these 7 injuries, 2 were grievous hurts in the form of fractures whereas other injuries were simple injuries.

6. Perusal of the document further show that post lodgment of the report, better sense prevail over the parties and due to intervention of elderly members of the family and well-wishers, the Petitioners and the Respondent No. 2 decided to resolve their dispute amicably. It is stated in the affidavit filed on behalf of Respondent No. 2 that the parties have decided to bury past, come together and start living peacefully. He further stated that there is no pressure or coercion on him for the settlement.

7. It may not be out of place to refer to the order of this Court dated 26th August, 2021. The division bench of this Court had interacted with the Respondent No. 2 who was present before this Court and in that interaction the Respondent No. 2 submitted to the Court that he is entering in the settlement voluntarily and is giving his consent for quashing the subject FIR.

8. As per the petitioners, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that they have no grudge against each other and the complainant has specifically agreed that he has no objection if the FIR in question is quashed. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between the parties before the court. As they do not intend to proceed with any criminal case against each other, on that basis the submission of the petitioners before the High Court was that the continuance of the criminal proceedings in the aforesaid FIR will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

9. In these circumstances, 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 alive, except burdening the Courts which are already overburdened. We are of the view that

in the backdrop of the aforestated fact-situation, the continuation of prosecution in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the FIR in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

10. Considering these facts, we are of the opinion that the learned Counsel for the Petitioners has made out a case for allowing the Petition. Accordingly, the Writ Petition is allowed in terms of prayer clause 'b'.

11. Rule made absolute in above terms.

(S.P. TAVADE, J.)

(PRASANNA B. VARALE, J.)