

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

***CRIMINAL WRIT PETITION NO.3043 OF 2022***

Karimuddin Salauddin Shaikh

...Petitioner

Versus

1. The State of Maharashtra

2. Sultan Latif Mamtule

...Respondents

Ms. Deepa Panicker, i/b Khalid Naseem Khan, for the Petitioner.

Ms. S. D. Shinde, A.P.P for the Respondent No.1– State.

Ms. Nibha Jha, for the Respondent No.2.

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

***DATE : 17<sup>th</sup> NOVEMBER 2022***

***P.C. :***

1. 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. Learned A.P.P waives notice on behalf of the respondent No.1–State. Ms. Jha, waives notice on behalf of the respondent No.2.

3. By this petition, the petitioner seeks quashing of the FIR bearing C.R. No. 778 of 2019, registered with the Malwani Police Station, Mumbai, at the behest of the respondent No.2, for the alleged offences punishable under Sections 326, 337, 323, 504 of the Indian Penal Code. Quashing is sought on the premise, that the parties *inter se* are related to each other and quashing of the matrimonial case between the parties.

4. Perused the papers. The petitioner is the brother-in-law of the respondent No.2. It appears that the incident is dated 5<sup>th</sup> October 2019. It appears that a quarrel took place between the petitioner and the respondent No.2 on account of a dispute between the respondent No.2 and his wife i.e. the petitioner's sister. It appears that when the petitioner went to resolve the dispute between the respondent No.2 and his sister, the respondent No.2 abused him and assaulted him. It appears that in the said incident, the petitioner sustained a fracture of his finger. Pursuant thereto, the aforesaid C.R. was lodged. After investigation, charge-sheet was filed in the said case and the case is

presently pending before the learned Metropolitan Magistrate, 24<sup>th</sup> Court, Borivali, Mumbai, being Case No.PW/644/2022.

5. During the pendency of the aforesaid proceeding and other proceedings between the petitioner's sister and the respondent No.2 (who are husband and wife), all cases came to be settled between the parties. By a separate order passed today in Criminal Writ Petition No.3041 of 2022, we have quashed the case registered by the petitioner's sister, as against her husband i.e. the respondent No.2 herein, in view of the amicable settlement between them.

6. As noted earlier, the petitioner is the brother-in-law of the respondent No.2 and the dispute appears to have arisen, when he intervened in the quarrel between his sister, who is the wife of the respondent No.2.

7. The respondent No.2 has filed his affidavit dated 16<sup>th</sup> June 2022, duly affirmed before the Assistant Registrar, High Court,

Appellate Side, which is at Exhibit – ‘C’ on page 47 of the petition. In the said affidavit, the respondent No.2 has given his no objection to the quashing of the said case, which is an outcome of a matrimonial dispute between him and his wife (the petitioner is the brother-in-law of the respondent No.2). Respondent No. 2 is present in Court. On questioning, he re-iterates what is stated by him in his affidavit. Learned counsel for the respondent No. 2 has tendered a self attested photo copy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

8. Considering the nature of dispute, the relations between the parties, the amicable settlement between them, the affidavit filed by the respondent No.2, the nature of injury sustained by the petitioner and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab and Another*<sup>1</sup> and *Narinder Singh*

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<sup>1</sup> (2012) 10 SCC 303

*and Others vs. State of Punjab and Another*<sup>2</sup>, there is no impediment in allowing the petition.

9. The petition is accordingly allowed and the FIR bearing C.R. No. 778 of 2019, registered with the Malwani Police Station, Mumbai, is quashed and set aside and consequently, the proceeding pending before the learned Metropolitan Magistrate, 24<sup>th</sup> Court, Borivali, Mumbai, being Case No.PW/644/2022, is also quashed and set aside.

10. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

***R. N. LADDHA, J.***

***REVATI MOHITE DERE, J.***

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<sup>2</sup> (2014) 6 SCC 466