

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1599 OF 2021**

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| 1. | Shoaib Usman Shaikh |] | |
| 2. | Mohammed Arbar Abubakar Bobere |] | |
| 3. | Sagir Shamsuddin Shaikh |] | |
| 4. | Shaikh Mohammed Kaif |] | |
| 5. | Anwar Ali Hussain Shaikh |] | Petitioners |

Vs.

- | | | | |
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| 1. | State of Maharashtra
(Through Mahim Police Station) |] | Respondent No.1 |
| 2. | Bilal Salim Sayed, |] | Respondent No.2 |

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Mr. Ajit Paranjape i/b Mr. Maqsd Patel, for Petitioners.

Mr. K.V. Saste, A.P.P, for Respondent No.1-State.

Mr. Rohit Sawant, for respondent No.2.

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

DATE : 5th DECEMBER, 2022.

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

1. Heard learned Counsel for the petitioners, learned A.P.P appearing for the Respondent No.1-State and the learned Counsel appearing for the respondent No.2.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1- State and Mr. Sawant, learned Counsel waives notice on behalf of the respondent No.2-first informant.

3. The petitioners herein have invoked inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C") alongwith Article 226 of the Constitution of India, *inter alia*, praying for quashing the First Information Report (for short "F.I.R") registered with the Mahim Police Station bearing No.289 of 2020 on 7th November, 2020 for the alleged offences punishable under sections 141, 143, 147, 149, 324, 504, 188, 269, 270 and 323 of the Indian Penal Code and sections 4 and 5 of the Epidemic Disease Act, lodged by respondent No.2 on the premise that the parties have amicably resolved their dispute.

4. It is pertinent to note that there is a cross case registered by petitioner No.1 herein on the same day with the same Police

Station vide C.R. No.288 of 2020 against the petitioners.

5. Briefly stated, prosecution case is that on 6th October, 2020 around 8.00 hours, younger brother of the respondent No.2 - Hamja was playing with his friend near Anjuman School. He was reprimanded by a woman residing in the said vicinity. At that time, one unknown person hit the boys. Thereafter, Hamja rushed home and narrated the aforesaid incident to the respondent No.2. When respondent No.2 along with his friend went to the spot and questioned the unknown person about hitting his brother, one Sallu Shaikh attacked him with a blade on his back. One Yusuf Choudhary assaulted him with hands. One Arbar assaulted him with wooden bamboo and four to five unknown persons assaulted him with kick and fist blows. Respondent No.2 fell on the ground and, therefore, he could not see the unknown persons.

6. Respondent No.2 thereafter approached the respondent No.1 and lodged an F.I.R, as above.

7. Charge-sheet has not yet been filed in this case. The petitioners have filed this petition seeking quashing of the C.R in view of an amicable settlement between the respondent No.2 and them.

8. We have perused the papers, so also, the medical certificate issued by K.B. Bhabha Hospital, Bandra (West) to the respondent No.2. It depicts injuries on the back, right shoulder and swelling behind right ear of the respondent No.2.

9. Learned Counsel appearing for the petitioners submits that the parties have amicably settled their dispute and as such, the respondent No.2 has no objection if the proceeding i.e the aforesaid C.R. is quashed and set aside, in view of the amicable settlement between the parties.

10. Learned Counsel appearing for the respondent No.2 has tendered an affidavit of the respondent No.2 duly affirmed before the Notary. The said affidavit is taken on record. Learned Counsel for the respondent No.2 has also tendered a photostat

copy of the Aadhar Card of the respondent No.2 duly attested by him. The same is taken on record. The respondent No.2 is present in the Court and he reiterates the contents of the said Affidavit. Learned Counsel 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.

11. In view of the same, respondent No.2 has no objection for quashing of the proceedings as against the petitioners. On being asked, the respondent No.2 reiterates what is stated by him in the affidavit, that he has no objection to quashing of the proceedings.

12. Having considered the nature of the allegations, nature of the dispute, amicable settlement between the parties, no objection of the respondent No.2 and the judicial pronouncements of the Apex Court in **Gian Singh Vs. State of Punjab and another¹** and **Narinder Singh and others Vs. State of Punjab and another²**, there is no impediment in allowing the petition.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

13. The petition is accordingly allowed and the F.I.R registered vide C.R. No.289 of 2020 against the petitioners with the Mahim Police Station, Mumbai is quashed and set aside.

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

15. Each of the petitioners and the respondent No.2 to deposit costs of Rs.20,000/- with the **Mumbai Police Welfare Fund bearing Account No.465010100008693, IFSC No.UTIB0000465** by **13th January, 2023**.

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

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

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