

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

WRIT PETITION NO. 3777 OF 2021

Mr. Santosh Ravindraprasad Mishra	...Petitioner
vs.	
The State of Maharashtra & Anr.	...Respondents

Mr.Samir Pradhan with Mr.Nilesh L. Makwana with Ms.Pooja L. Makwana
i/b. Mr.Kamlesh N. Gujar for Petitioner.
Ms.Sachi Lodha for Respondent No.2.
Ms.Sangeeta D. Shinde, APP for Respondent No.1.
Mr.Santosh R. Mishra Petitioner present.
Dr.Nikita Sunil Singh for Respondent No.2 present.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 6 JANUARY 2022

P.C. :

. Counsel for the Petitioner submitted that though initially the petition was filed for seeking quashment of FIR during pendency of the petition, the Investigating Agency concluded the investigation by filing charge sheet before the competent court, as such Counsel for the Petitioner orally prays for amendment to the petition by modifying the prayer and adding the words “quashing FIR No.369/2021 and further proceedings pursuant to the FIR No.369/2021”. The oral prayer for amendment is allowed. The necessary amendment be carried out by tomorrow.

2. Heard learned Counsel for the Petitioner-Dr.Santosh R. Mishra, learned APP for Respondent No.1-State of Maharashtra and Ms.Sachi Lodha, learned Counsel for Respondent No.2 – Dr.Nikita Sunil Singh. Both

the Petitioner and Respondent are present before this court by virtual mode.

3. The Petitioner by way of present petition prayed for quashment of FIR No.369/2011 registered with Navghar Police Station under Sections 354-D, 323, 504, 506 and 509 of IPC.

4. Learned Counsel submitted that the Petitioner and Respondent No.1 were prosecuting their course in one college, namely, Government Ayurvedic College, Sion. The Petitioner and Respondent No.2 after completing their basic course joined the Post Graduate Course. The acquaintance between Petitioner No.1 and Respondent No.2 resulted in close association between them. Both of them were more than friendly terms and due to certain misunderstanding and communication gap, Respondent No.2 lodged a report at the police station.

5. Learned Counsel for the Petitioner invited our attention to the affidavits placed on record duly sworn by the Petitioner as well as Respondent No.2. It is stated in the affidavit of the Petitioner that the impugned FIR was lodged in haste, however, with an intervention of relatives and common friends and out of complainant's free will, the issue is resolved by an amicable settlement. It is stated in the affidavit further that Respondent No.2 / original complainant does not intend to prosecute with the case any further and she intends to state that she has no objection that the impugned FIR is quashed. It is stated in the affidavit that it is decided that either of the party will not talk with each other and they have duly separated themselves without any grudges of whatsoever nature.

6. On similar lines, the affidavit is filed by Respondent No.2 under the caption “Consent Affidavit”. It is stated in her affidavit that the FIR was lodged in haste and the Applicant/Petitioner-Dr.Santosh R. Mishra and Respondent No.2/original complainant-Dr.Nikita Sunil Singh have arrived at a compromise. It is stated that on her own will, Respondent No.2 has agreed for an amicable compromise with the accused Applicant. Then there are certain other statements. Same reads thus :

“3. That the Respondent no.2 who is the Original Complainant (First Informant) and Applicants have decided to not pursue the subject complaint and hence it would be just, equitable and proper that the investigation in the said case should not continue further as it will not serve any useful purpose.

4. That therefore I, the deponent herein i.e. Respondent No.2 – Original Complainant does not desire to proceed in the matter and hence I give my **NO OBJECTION** in the said FIR as stated above, may be quashed and set aside on certain terms and conditions as agreed between parties.

5. The Applicant hereby agrees, and undertake that he does not have, will not retain possession and will not misuse anytime in future, any personal data of the Respondent no.2 including physical or digital data, obtained from any source whatsoever including social Media, Mobile data, personal Communication, Photographs, whether in digital or physical form.

6. The Applicant declares that he undertakes to this Hon’ble Court that he shall not in any manner interfere in the life of Respondent no.2 or cause any nuisance or defame/malign her reputation in person or public after filing of the said consent terms in the present petition.

7. It is also been decided between both the

parties that either of the party will not talk with each other and they have duly separated their pathways themselves without any grudges of whatsoever nature. These Consent Terms are binding on both the parties.”

On a specific query made to Respondent No.2-Dr.Nikita Sunil Singh, who is present before this court by virtual mode, as to whether the affidavit filed by her and the consent stated in the affidavit for quashment of the report is on the free will and wish of Respondent No.2. Respondent No.2 replied in affirmative.

7. 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 Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of the FIR 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 subject 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.

8. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we are of the considered view that there is no impediment in quashing the FIR in question.

9. Considering the above referred aspects as well as in view of the above referred judgment of the Apex Court, we are of the opinion that as the parties have decided to part their ways and not to interfere in each other life in future and as offences alleged in the report are in the nature of a personal act of the Applicant/Petitioner, case is made out for exercising powers of this court under Section 482 of the Criminal Procedure Code for allowing the petition.

10. Accordingly, the petition is allowed in terms of prayer clause (a) subject to the Petitioner-Dr.Santosh R. Mishra and Respondent No.2-Dr.Nikita Sunil Singh to deposit an amount of Rs.10,000/- each to the Dean/Principal of Government Ayurvedic College, Sion, within two weeks from today and placing on record the copy of receipt of deposit of amount.

11. The petition is, accordingly, disposed of.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)