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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 6189 OF 2021**

Amaan Yusuf Shaikh and ors. ... Petitioners
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Kamran Shaikh for the Petitioners.
Mr. J.P. Yagnik, APP for the Respondent No.1 – State.
Mr. Mohseen Shaikh for Respondent No.2.

CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.
DATE : 24 JUNE 2022.

P.C.

. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.56 of 2021 (hereinafter referred to as “FIR”, for short) dated 9 April 2021 registered at Navghar Police Station, Mumbai for the offence punishable under Section 326 read with 34 of Indian Penal Code.

2. According to the Respondent No.2/Complainant, at whose instance the aforesaid crime came to be registered, on 8 April 2021 at about 9.30 p.m., the present Petitioners assaulted him by stick, which was like Baseball Bat.

3. The learned Counsel for the Petitioners and the learned Counsel for the Respondent No.2 jointly submit that it is simple incident of road rage. It is submitted that the parties have amicably settled the dispute and thus no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. It is submitted that considering the facts and circumstances, the FIR may be quashed.

4. The learned APP, on instructions, submits that the Petitioners do not have criminal antecedents.

5. The parties have filed the consent terms on record. In addition to it, the Respondent No.2 has filed consent affidavit dated 15 September 2021. The Respondent No.2/ Complainant was present before us on 22 June 2022. We interacted with the Respondent No.2, who is Doctor by profession. The Respondent No.2 has stated that, he has no objection, if the FIR in question is quashed in view of settlement arrived at between the parties.

6. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*¹ has held :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power

1 (2014) 6 SCC 466

under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character,

particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

7. We have examined the facts of the present case in the light of principles laid down by the Hon’ble Supreme Court in the case of *Narinder Singh (surpa)*. The incident does not appear to be premeditated. Assault appears to be on non-vital parts. Even other wise in view of the settlement between the parties, Respondent No.2 is not going to support the prosecution case. Thus, nothing fruitful will come out of the prosecution case. Considering these facts and circumstances, the petition deserves to be allowed. Hence, the Petition is allowed in terms of prayer clause (a), which reads thus:

“a That the Consent terms filed by the Petitioners and Respondent No.2 (Complainant/First Informant) be taken on record and perusing the same this Hon’ble Court be pleased to Quash and Set aside C.R. No. 56 of 2021 u/s 326 r/w 34 of the IPC of Navghar Police Station, Mumbai.”

8. The Petitioners will pay amount of Rs.25000/- each to the Police Welfare Fund viz. *“Mumbai Police Welfare Fund Account*

No.465010100008693 IFC code: UTIB0000465” within six weeks from today and this order is conditional upon payment of costs.

9. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)