

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

CRIMINAL APPLICATION NO. 889 OF 2022

1. Augustine B Dsouza

2. Shantaram G. Naik

...Applicants

VS.

1. The State of Maharashtra

2. Mrs. Vrushali Pravin Kadam

...Respondents

Mr. Neeraj Yadav - Advocate for the Applicant

Ms. Sonali N. Tamhankar - Advocate for the Respondent No.

2

Mr. Y. M. Nakhwa – APP for the Respondent-State

Rajendra Ghadigaonkar – PSI Dadar Police Station.

**CORAM : REVATI MOHITE DERE &
 S. M. MODAK, JJ.**

DATE : 27th SEPTEMBER, 2022

P. C. :-

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the

consent of the parties and the application is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1-State. Ms. Sonali N. Tamhankar waives notice on behalf of the respondent No.2.

3 By this application, preferred under Section 482 of the Criminal Procedure Code, the applicants seek quashing and setting aside of the FIR, bearing C.R. No. 149 of 2017 registered with the Dadar Police Station, Mumbai, as against the applicants for the alleged offences punishable under Sections 354, 509 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the applicants and the respondent no. 2 have amicably settled their dispute.

4 Perused the papers. According to the respondent no. 2 (original complainant), the incident took place on 16/06/2016 at around 5.45 p.m.. The respondent No. 2 has alleged that on the said date, she and her husband had reached Kamat hotel, near Dadar station, to inquire about

the admission for their son for MPSC classes, and that at around 5.45 p.m., while they were standing near the gate of Vijaynagar building, the applicants threw a stick at a stray dog and the said stick hit the respondent no. 2's right leg. Pursuant thereto, a quarrel ensued between the applicants on the one hand and the respondent no. 2 and her husband on the other. The respondent no. 2 has further alleged that the applicant no. 2 held her hand and pushed her and also abused her in filthy language. Pursuant thereto, the respondent no. 2 lodged the aforesaid F.I.R.. After investigation, charge-sheet was filed and the case is presently pending before the learned Metropolitan Magistrate, 5th Court, Dadar, Mumbai, being Criminal Case No. 15/PW/2018.

5 It appears that in the interregnum, the parties decided to amicably settle their dispute. The applicants have tendered an unconditional apology to the respondent no. 2 and the respondent no. 2 has accepted the said unconditional apology.

6. The respondent no. 2 has also filed her affidavit which is at page no. 34 of the application. In the said affidavit, the respondent no. 2 has stated that she has no objection for quashing of the aforesaid C.R./Proceedings and that there has been no force to give the said no objection. The said affidavit dated 15/07/2022 is duly affirmed before the notary. Learned counsel for the respondent no. 2 has tendered a self attested xerox copy of the Aadhar card of the respondent no. 2. The same is taken on record. Learned Counsel for the respondent no. 2 identifies the said respondent and the learned APP has verified the original Aadhar card of the respondent no. 2.

7. Considering the nature of dispute, the amicable settlement between the parties and having regard to the judicial pronouncements of the Apex Court in the case of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², there is no

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

impediment in allowing the application.

8. Accordingly, the application is allowed and the FIR, bearing C.R. No. 149 of 2017 registered with the Dadar Police Station, Mumbai, is quashed and set aside and consequently, the proceeding arising thereto, i.e. Criminal Case No. 15/PW/2018 pending before learned Metropolitan Magistrate, Dadar, Mumbai is also quashed and set-aside.

9 Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

10 Applicants to pay cost of Rs. 10,000/- i.e. Rs. 5,000/- each to the Kirtikar Law Library within two weeks from today.

11 Stand over to **18/10/2022 for recording compliance of the Order** of deposit.

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

[S. M. MODAK, J.]

[REVATI MOHITE DERE, J.]