

... Petitioner

The State of Maharashtra and another ... Respondents

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Ms. Sindhu Kotian alongwith Mr. Venkat Rao and Mr. Akash Gaonkar instructed by Legal Serve and Associates for Respondent No.2.

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DATED : 6 JULY 2022

By this Petition, the Petitioner sought for the following relief :

“(a) C.R. No.94 of 2019 registered with Bandra Police Station, Mumbai dated 31.01.2019 under Section 354 of Indian Penal Code be quashed and set aside.”

2. The Petition was initially filed seeking to quash the FIR on merits. Thereafter, the learned Counsel appeared on behalf of the

Respondent-Complainant and has filed a preceipe and in light of that preceipe, we have considered the matter further. We are informed that charge-sheet has not been filed.

3. The Petitioner and the Respondent No.2 are related. Petitioner is the uncle of Respondent No.2. Respondent No.2 filed an FIR on 31 January 2019, gist of it being that in the year 1987, when she was nine years old, the Petitioner inappropriately touched her. It is stated that Respondent No.2 is married and having two grown-up children. The Petitioner is now 63 years old.

4. Though the Petition is filed in the year 2019 it took time since Respondent No.2 did not remain present. On 21 June 2022, notice was directed to be served, even though earlier Respondent No.2 had refused to accept. When the Petition came up on board on 28 June 2022, the learned Counsel for Respondent No.2 had taken time to take instructions. Thereafter, when the matter came up on 5 July 2021, it was put to the learned Counsel that considering the time span and the relationship between the parties whether the parties are ready to resolve the issue amicably. The learned Counsel for the Respondent No.2 had stated that Respondent No.2 is currently in the United States and would get her view by way of an e-mail.

5. Today, the learned Counsel for Respondent No.2 has filed a preceipe annexing the e-mail received from Respondent No.2. Preceipe is taken on record and marked 'X' and the e-mail is marked 'X-1'. In the e-mail communication, Respondent No.2 has stated that in the interest of putting an end to the entire issue and in order to maintain peace within the family, Respondent No.2 is willing to withdraw the complaint and she has given her consent.

6. The alleged incident has taken place in the year 1987, more than 35 years ago. Considering the stand taken by Respondent No.2, the prosecution not likely to result in conviction and it would a needless harassment for both the parties. In the case of *Gian Singh v. State of Punjab*¹, Supreme Court has laid down certain parameters where the FIR can be quashed by consent of the parties. Having considered the facts of the case and relation between the parties and the stand taken by the learned Counsel on instructions from the Respondent-complainant, we find that the case is covered by the law laid down by the Supreme Court.

7. In light of the same, the Writ Petition is allowed in terms of prayer clause (a).

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8. Without reflecting on the merits of the case, the stand taken by Respondent No.2 in the interest of achieving family peace is appreciated.

9. The Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
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DHURI

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by KANCHAN
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