

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

CRIMINAL APPLICATION NO.838 OF 2021

Subhash Tulsiram Balshankar ...Applicant

Versus

1. State of Maharashtra

2. Ramesh Jagmohan Namdev ...Respondents

Mr. Yogesh S. Sankpal a/w Mr. Kishor Ajitrao, for the Applicant.

Ms. M. H. Mhatre, A.P.P for the Respondent No.1– State.

Mr. Shivam Tiwari, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.***

DATE : 5th 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 is taken up for final disposal. Learned APP waives service on behalf of the respondent No.1 – State. Mr. Tiwari waives service on behalf of the respondent No.2.

3. By this application, the applicant seeks quashing of FIR No. 84 of 2020, registered with the Nirmal Nagar Police Station, Mumbai on 24th February 2020, as against the applicant, for the alleged offences punishable under Sections 324, 326 and 504 of the Indian Penal Code ('I.P.C.').

4. Learned Counsel for the applicant submits after the charge-sheet was filed, the parties i.e. the applicant and the respondent No.2 (original complainant) have amicably settled their dispute. He submits that the injury certificate, which is from page 49 onwards of the application, does not indicate that the respondent No.2/original complainant had sustained any fracture, justifying application of Section 326 of the I.P.C.

5. Learned Counsel for the respondent No.2 has filed two affidavits dated 23rd November, 2021 and 20th July 2022. From the said affidavits, it appears that the respondent No.2 does not wish to proceed with the case and has no objection for quashing of the

proceeding, *qua* the applicant.

6. Perused the papers. The respondent No.2 is the original complainant, who had lodged a complaint dated 24th February 2020, with the Nirmal Nagar Police Station, Mumbai. In the said complaint, the respondent No.2 has stated that the applicant is working in a shop next to his and that there is some dispute between them and that in the quarrel between them, the applicant assaulted him with an iron pakad/cutter-fly, on his forehead and nose. It appears that after investigation and after the filing of the charge-sheet, the parties have amicably settled their dispute. The respondent No.2 is present in Court. The investigating officer, who is present in this Court has personally identified the respondent No.2. Although, the police have filed the charge-sheet, alleging an offence under Section 326 of the I.P.C, a perusal of the injury certificate, which is from page 49 onwards of the application, does not show that the respondent No.2 had sustained any fracture or any other 'grievous injury', as contemplated under Section 320 I.P.C, so as to attract the provisions of Section 326

of the I.P.C.

7. Considering the nature of dispute, the amicable settlement between the parties, and the judicial pronouncements of the Apex Court, in *Gian Singh vs. State of Punjab and Another*¹ and *Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the application.

8. Accordingly, FIR No. 84 of 2020, registered with the Nirmal Nagar Police Station, Mumbai, is quashed and set aside, so also all consequential proceedings arising thereto.

9. Rule is made absolute on the aforesaid terms. Application is allowed and is accordingly disposed of.

10. The applicant, who is present in this Court is directed to pay a sum of Rs.30,000/- to the respondent No.2, by way of costs,

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

within one week from today. The said order of quashing of the FIR and all consequential proceedings arising thereto, is subject to the applicant paying a sum of Rs.30,000/-, by way of costs, to the respondent No.2.

11. Stand over to **19th September 2022**, for recording compliance of the aforesaid order.

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

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.