

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

WRIT PETITION NO. 4314 OF 2021

Karim Riyaz Choudhary & Ors.

...Petitioners

vs.

The State of Maharashtra & Anr.

...Respondents

Mr.Rohit P. Sawant for Petitioners.

Mrs.Sangita D. Sawant, APP for State.

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

DATED : 17 JANUARY 2022

P.C. :

. The Petitioners, by way of present petition, are seeking quashing of FIR, bearing No.407/2021, dated 12 August 2021 registered by the Mahim Police Station for the offences punishable under Sections 354(B), 504, 506, 323 read with 34 of IPC and under Sections 8 and 12 of POCSO Act.

2. The Petitioners and Respondent No.2, who is the informant, are the close relatives. There is a long standing dispute over the ancestral property between the father of Respondent No.2 and her five uncles. In the complaint lodged by Respondent No.2, it is the case of the informant that her uncles and their children, in order to deprive her father of his share, are in the habit of picking up quarrels on different reasons to trouble her family. It is further alleged that on 12 August 2021 while Respondent No.2 was on her way to washroom, Petitioner No.1 taking advantage of the situation pulled her hand and tried to pull her in the room with an intent to

disrobe her. While he was trying to pull Respondent No.2, her clothes were torn. Respondent No.2 shouted and cried for help when her brother Anas tried to intervene. At that time, Petitioner Nos.1 and 2 started to hit him. Listening to the commotion, Respondent Nos.2's parents arrived at the spot and reasoned with Petitioner No.1 as to why they were beating their children and that moment, Petitioner No.3 arrived and threatened to break their shops and also parents of Respondent No.2 with dire consequences. Thereupon, the informant lodged the FIR in question.

3. Heard learned Counsel for the Petitioners and learned APP for the State.

4. Learned Counsel for the Petitioners submits that the FIR is nothing but an outcome of an ancestral property dispute between the family members. It is submitted that the Petitioners and the informant are the closed relatives and there is long standing dispute over the ancestral property in the family. It is further submitted that the FIR in question is a counter blast to the FIR lodged by Petitioner No.3 against the member of family of Respondent No.2. It is submitted that as the Petitioners and Respondent No.2 are closed relatives, they have amicably settled the dispute with an intention to bring back peace in the family and to live harmoniously. In the said backdrop, learned Counsel for the Petitioners prays for quashing of FIR in question.

5. Learned Counsel for the Petitioners drew attention of this court to the affidavit filed by the informant/Respondent No.2 wherein she has stated that the Petitioners and she are closely related to each other and the dispute has been settled between them amicably and therefore, she does

not want and wish to proceed further as regards the FIR in question.

6. The informant herself is personally present by virtual mode along with her father and they have been identified by learned Counsel for the Petitioners. On a specific query, the informant and her father had admitted to the fact that the Petitioners and the informant are close relatives and with an intention to live peacefully along with the other family members, they have decided to settle the dispute amicably.

7. Learned APP has no objection to allow this petition in view of the fact that the FIR was lodged out of a long standing dispute in respect of ancestral property and because the parties are in close relation.

8. After considering the statements recorded and the allegations made in the FIR, it is clear that both the parties are closely related and there are counter FIRs filed against each other. Some of the allegations are serious and attract provisions of POCSO Act. However, looking to the intention of the parties being closely related, that they want to live life peacefully and in harmony and therefore, they want to settle the dispute amicably, we are of the opinion that no purpose would be served even if the trial is permitted to continue.

9. 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 ultimately 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 prosecution of the

Petitioners 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 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.

10. 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.

11. The petition is allowed in terms of prayer clause (a).

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)