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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3275 OF 2018**

Kashyap I. Parikh and ors. ... Petitioners
V/s.
State of Maharashtra and ors. ... Respondents

Mr. Mansha Khemka a/w. Ms Twinkle Khemka i/b Khemka and Associates for the Petitioners.

Mr. K.V. Saste, APP for the Respondent Nos.1 and 2/State.

Mr. Mahesh Rajput for Respondent No.3.

**CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.**

DATE : 3 AUGUST 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.186 of 2013 (hereinafter referred to as "FIR", for short) dated 1 August 2013 registered at Bangur Nagar Police Station, Mumbai for the offence punishable under Section 324, 323 and 504 read with 34 of Indian Penal Code and criminal case No.834/PW/2022 pending on the file of learned Metropolitan Magistrate, Borivali arising out of said FIR.

2. The aforesaid crime came to be registered, at the instance of Respondent No.3. According to the Respondent No.3, on 1 August 2013 at about 08:10 p.m., the present Petitioners assaulted him by stick and first blows as he questioned them about their rash and negligent driving of the car.

3. The learned Counsel for the Petitioners and the learned Counsel for the Respondent No.3 jointly submit that the parties have amicably settled the dispute. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. The learned Counsel for the parties submit that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh and ors vs. State of Punjab and anr*¹.

4. The Respondent No.3 has filed consent affidavit dated 9 December 2019. The Respondent No.2 has stated that, he has no objection, if the FIR in question is quashed.

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

6. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*² has held :

1 (2014) 6 SCC 466

2 (2014) 6 SCC 466

“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 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 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. Injury appears to be simple. Even other wise in view of the settlement between the parties, Respondent No.3 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. Writ Petition is accordingly allowed and the FIR No. 186 of 2013 dated 01.08.2013 registered at Bangur Nagar Police Station, against the Petitioners for the offences punishable under Sections 324, 323 and 504 read with 34 of IPC and criminal case No.834/PW/2022 pending on the file of learned

Metropolitan Magistrate, Borivali are quashed and set aside.

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. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)