

Versus

The State of Maharashtra and others ... Respondents

● ● ● ● ● ● ● ●

Mr. Mintoo R. Gond for Respondent No.2.

● ● ● ● ● ● ● ● ●

CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATED : 19 AUGUST 2022

P.C. :-

The present Writ 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.1298 of 2021 (hereinafter referred to as “FIR”, for short) dated 10 October 2021 registered at Sakinaka Police Station, Mumbai against the Petitioner for the offences punishable under Sections 324, 323, 504 and 506 (II) r/w. Section 34 of the Indian Penal Code.

2. The aforesaid FIR came to be registered at the instance of Respondent No.2 who has inter-alia alleged that there was some

dispute between his father and the present Petitioner on account of non-payment of electricity bill. It is alleged that on 10 October 2021, at about 14.00 hours the present Petitioner came to their shop and on account of the said dispute started abusing his father. It is alleged that when he tried to pacify the Petitioner, the Petitioner got annoyed and assaulted him by iron rod.

3. The learned Counsel for the Petitioner and the learned Counsel for the Respondent No.2 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.2 has filed the consent affidavit dated 25 February 2022. The Respondent No.2 has stated that he has no objection if the FIR in question is quashed in view of the settlement arrived at between the parties.

5. The Hon'ble Supreme Court in *Narinder Singh (supra)* has held :

1 (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 to 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.”

6. 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 (supra)*. Admittedly, the father of Respondent No.2 and the Petitioner are friends. The incident does not appear to be premeditated. In view of the settlement between the parties, Respondent No.2 is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. Considering these facts and circumstances, the Writ Petition deserves to be allowed. Writ Petition is accordingly allowed. Consequently, the FIR No.1298 of 2021 dated 10 October 2021 registered at Sakinaka Police Station, Mumbai against the Petitioner for the offences punishable under Sections 324, 323, 504 and 506(II) r/w. 34 of the IPC is quashed and set aside.

7. The Petitioner will pay amount of Rs.5,000/- (Rupees Five Thousand) to the Maharashtra Police Welfare Fund within eight weeks from today and this order is conditional upon payment of costs.

8. The Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI

Digitally signed
by KANCHAN
PRASHANT
DHURI
Date:
2022.09.19
16:59:59 +0530