

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

CRIMINAL WRIT PETITION NO. 4147 OF 2019

Captain Shishir Panwar ... Petitioner

Versus

1. The State of Maharashtra
2. Asha Mittal Mohammed Sallam ... Respondents

Mr. Sanjeev P. Kadam a/w Mr. Prahlad Paranjape i/b Mr. Subir Sarkar, for the Petitioner.

Mr. K. V. Saste, APP for the Respondent No. 1– State.

Mr. Sayed Asif Abbas Naqvi, for the Respondent No.2.

Mr. Sonawane, PSI, attached to Charkop Police Station, present.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 21st DECEMBER, 2022.

P. C. :

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State and learned Counsel Mr. Sayed Naqvi waives notice on behalf of the respondent No.2.

3 By this Petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing and setting aside of the FIR, bearing C.R.No. 425 of 2016, registered with the Charkop Police Station, Mumbai, for the alleged offences punishable under Sections 509, 504, 506(1) of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4 Perused the papers. The respondent No.2-original complainant is staying in a society i.e. Bhoomi Park, Malad, Mumbai. The respondent No.2 also has an office in the said society. According to the respondent No.2, the petitioner comes to meet his in-laws in the said society i.e. Bhoomi Park, Malad, regularly. She has alleged that on one such occasion, when she had parked her car on a public road in front of her office, the petitioner came outside her office and abused her clerk and asked him to move the respondent No.2's car. It is alleged that there was an altercation between the petitioner and her clerk and that the petitioner abused her clerk in filthy language. It is further alleged that the petitioner also made gestures and started

shouting and addressed the respondent No.2 as 'yaar'. Pursuant thereto, the respondent No. 2 lodged the aforesaid CR as against the petitioner alleging the aforesaid offences.

5 After investigation charge-sheet was filed and the case is presently pending before the learned Additional Metropolitan Magistrate, Borivali, Mumbai, being No. PS/2348/2018.

6 In the interregnum, during the pendency of the aforesaid Petition, the parties amicably settled their dispute. Both, learned Counsel for the petitioner as well as learned Counsel for the respondent No.2 have tendered their affidavits dated 21st December, 2022 duly notarized before the Notary. The said affidavits are taken on record. In the affidavit-cum-undertaking tendered by the petitioner, a Captain in the Merchant Navy, he has stated that the dispute arose out of misunderstanding. He has undertaken, not to interact or maintain any ill-will with the respondent No.2 any further. He has further stated that he is required to visit the society to meet his ailing mother-in-law, since the flat is in the name of his wife and as such, is also required to

communicate with the members of the society, of which the respondent No.2 is the Secretary.

7 Respondent No.2 has given undertaking in her affidavit not to interact with the petitioner. She has also stated that she will not make any allegation against the petitioner provided he or any of his acquaintances do not trouble her.

8 Respondent No.2 is present in person. She states that if there is any issue with respect of the flat in question i.e. petitioner's in-laws, the petitioner is free to meet the other office bearers of the society. She states that the petitioner is not required to meet her for society related issues. Both, the petitioner and the respondent No.2, are present. They both assure to abide by the undertakings given by them in their affidavits.

9 Considering the nature of the dispute, the nature of the allegations, the amicable settlement between the parties and the affidavits filed by the petitioner and the respondent No.2, there is no impediment in allowing the Petition.

10 Accordingly, the Petition is allowed and the FIR bearing C.R.No. 425 of 2016, registered with the Charkop Police Station, Mumbai, as against the petitioner and consequently, the proceeding pending before the learned Additional Metropolitan Magistrate, Borivali, Mumbai, being No. PS/2348/2018 are quashed and set aside.

11 Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.

REKHA
PRAKASH
PATIL

Digitally signed
by REKHA
PRAKASH PATIL
Date: 2023.01.02
14:29:14 +0530