

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4413 OF 2022

Mayank Rameshchandra Soni

...Petitioner

Versus

1. The State of Maharashtra
2. Rahul Narayanrao Patil

...Respondents

Mr. A. Karim Pathan for the Petitioner.

Mr. J.P.Yagnik, A.P.P for the Respondent-State.

Mr. Avanendra Kumar for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**
DATE : 7th DECEMBER, 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 A.P.P waives

notice on behalf of the respondent No.1–State. Mr. Avanendra Kumar waives notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR bearing C.R. No. 270 of 2018 registered with the M.I.D.C. Police Station, Andheri, for the alleged offences punishable under Sections 392, 506(2) and 504 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent No.2, the incident took place on 9th June, 2018 at about 9.30 p.m., when he stepped out to go for dinner with his friend. According to the respondent No.2, he got down from an auto rickshaw, purchased ice-cream and started walking towards his friend's house; that he stopped after seeing the red signal at Durga Nagar; that thereafter, all the vehicles stopped after seeing the red signal and hence, he started

walking on the zebra crossing. The respondent No.2 has alleged that an unknown person (the petitioner) came on his motorcycle and while trying to cross the signal, came in front of him and started abusing him. The respondent No.2 has stated that he pulled out his mobile phone and took petitioner's photo alongwith his motorcycle, pursuant to which, the petitioner started abusing and assaulting him with his umbrella. He has further alleged that whilst rescuing himself, the petitioner snatched his gold chain, pursuant to which, he filed the aforesaid complaint. After investigation, chargesheet was filed and the case is presently pending before the learned Metropolitan Magistrate, 22nd Court, Andheri being C.C.No. 3497/PW/2018.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to pay a quietess to the said dispute.

6. Learned Counsel for the petitioner submits that the petitioner is working with a reputed company; that during a scuffle

which took place between the petitioner and the respondent No.2 on the day of incident, the respondent No.2's gold chain fell down. Having regard to the affidavit of the respondent No.2 and the submissions of the learned Counsel for the respondent No.2, prima facie, we are of the opinion that no offence under Section 392 as alleged as against the petitioner, is made out. It appears that the gold chain fell down, during the scuffle that took place between the parties.

7. Learned Counsel for the respondent No.2 has tendered an affidavit of the respondent No.2 dated 7th December, 2022, duly affirmed before the Assistant Registrar, High Court. In the said affidavit, the respondent No.2, who is a Doctor, has stated that he has no objection to the quashing of the aforesaid proceeding. He has further stated in paragraph 8 that he could not recollect what happened to his gold chain, in his scuffle with the petitioner, on the day of incident. The said affidavit is taken on record.

8. The respondent No.2 is present in person. On

questioning, he re-iterates what is stated by him in his affidavit i.e. he has no grievance as against the petitioner. The respondent No.2 has been identified by his Counsel. Learned Counsel for the respondent No.2 has tendered a photocopy of the Aadhar Card of the respondent No.2, duly signed by him. The original Aadhar Card of the respondent No.2 is verified by the learned APP.

9. Considering the nature of dispute, the amicable settlement between the parties, the affidavit of the respondent No.2, no useful purpose would be served by continuing the aforesaid proceeding. Accordingly, we allow the aforesaid petition and the FIR bearing C.R. No. 270 of 2018 registered with the M.I.D.C. Police Station, Andheri, and consequently, the proceeding pending before the learned Metropolitan Magistrate, 22nd Court, Andheri, being C.C. No. 3497/PW/2018, are quashed and set-aside.

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

11. Learned Counsel for the respondent No.2 to file his Vakalatnama, if not filed, on behalf of the said respondent, in the Registry, within two weeks of uploading of this order.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.