

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

CRIMINAL WRIT PETITION NO. 3750 OF 2022

- | | |
|---------------------------------|-----------------|
| 1. Ms. Anju Vikramchand Soni | |
| 2. Mr. Priyash Pritisinh Jadeja | ... Petitioners |
| <i>Versus</i> | |
| 1. The State of Maharashtra | |
| 2. Ms. Haya Hanif Kadawala | ... Respondents |

Mr. Harshwardhan Salgaonkar a/w Mr. Raj Dani i/by Thodur Law Associates for the Petitioners.

Mr. Burzin Bharucha a/w Mr. Sanjay Rego i/by White and Brief Advocates for the Respondent No.2.

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

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 18th NOVEMBER, 2022

P.C. :-

- . Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and the petition is taken up for final disposal. Learned APP waives notice on behalf of the respondent no.1-State. Mr.Bharucha, learned counsel waives notice on behalf of the respondent no.2.

3. By this petition, the petitioners seek quashing of the FIR registered vide C.R. No. 1110 of 2022 with the Khar Police Station, Mumbai, for the alleged offences punishable under Sections 325, 354, 509, 506, 427, 504 read with 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The incident in question, is stated to have taken place on 23rd July, 2022 at about 12:30 a.m., when the respondent no.2 visited Subway Restaurant, at Khar in her Hundai Car. According to the respondent no.2, while parking her car, she dashed a scooter, owned by the petitioners, which was already parked, pursuant to which, the said scooter fell. The incident led to an altercation between the petitioners on the one hand and the respondent no.2 and the persons present with her on the other. The said incident culminated in lodging of two FIR's, one at the behest of the respondent no.2 and one at the behest of the petitioner no.1. Thus, there are two FIRs with respective to the same incident, lodged by either side. Admittedly, charge-sheet has not been filed in the present case, till date.

5. During the pendency of the aforesaid FIRs, the parties amicably settled their dispute i.e. the parties in both the CRs. Parties have entered into a Memorandum of Settlement dated 20th September, 2022. The said Memorandum of Settlement entered into between the parties is at Exhibit 'B' at page 18 of the petition. The said Memorandum of Settlement has been signed by the accused as well as the First Informant in both the CRs. Both the parties have agreed to withdraw allegations as against each other and to give their no objection to quashing of the proceeding initiated by one against the other.

6. Learned counsel for the respondent no.2-Ms. Haya Hanif Kadawalla has tendered an affidavit in reply of the respondent no.2 dated 17th November, 2022, duly affirmed before the Notary. To the said affidavit is annexed a photocopy of the Aadhar Card of the respondent no.2 duly attested by her. Learned counsel for the respondent no.2 has identified the respondent no.2 and learned APP has verified the original Aadhar Card. The said affidavit is

taken on record. In the said affidavit, the respondent no.2 has stated that the dispute has been amicably settled between the parties and a Memorandum of Settlement has been entered into between the parties and that she has no objection for quashing of the FIR. The respondent no.2 is present in person. On questioning, she reiterates what is stated by her in the said affidavit.

7. As far as allegation of Section 325 is concerned, no injury certificate is placed before us to show that the complainant or any other person in the said CR has sustained any injuries. As far as allegation of Section 354 is concerned, it appears that, certain vulgar words were uttered by the petitioners, pursuant to which Section 354 was alleged.

8. Considering the nature of dispute, the manner in which the alleged incident had taken place, the fact that none have sustained any injuries, the amicable settlement between the parties, the affidavit of the respondent no.2 and the judicial pronouncements in this regard, there is no impediment in allowing the petition.

9. The petition is accordingly allowed and the FIR registered vide C.R. No.1110 of 2022 with the Khar Police Station, Mumbai, at the behest of respondent no.2, is quashed and set aside.

10. Each of the petitioners to deposit costs of Rs.5,000/- with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No.UTIB0000465**, within three weeks from today.

11. Rule is made absolute on the aforesaid terms i.e. subject to the petitioners depositing the costs as stated aforesaid within three weeks. Petition is disposed of accordingly.

12. Matter to be placed for recording compliance of the said order of deposit on **28th December, 2022**.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.