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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4704 OF 2021**

Jugal S. Agrawal and anr. ... Petitioners
V/s.
State of Maharashtra and anr. ... Respondents

Mr. Mukesh J. Pabari for the Petitioners.
Mr. J.P. Yagnik, APP for the Respondent No.1 – State.
Mr. Ramesh P. Gupta for Respondent No.2.

**CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.
DATE : 10 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 (Special LAC) No.16 of 2012 (hereinafter referred to as “FIR”, for short) dated 2 November 2012 registered at L.T. Marg Police Station, Mumbai against the Petitioners for the offences punishable under Sections 103 and 104 of Trade Marks Act, 1999 and Section 63 of the Copyright Act, 1957 and the criminal case bearing No.181/PW/2013 pending on the file of Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai arising out of said FIR.

2. The aforesaid FIR came to be registered at the instance of Respondent No.2/Complainant, who has alleged infringement of

trade mark and copyright by the Petitioners.

3. The learned Counsel for the Petitioners 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. Respondent No.2 has filed consent affidavit dated 2 August 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 and ors vs. State of Punjab and another*² has held :

“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:

1 (2014) 6 SCC 466

2 (2014) 6 SCC 466

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 (surpa)*. The dispute between the parties appears to be purely commercial dispute. The allegations are totally of personal in nature. Even other wise in view of the settlement between the parties, Respondent No.2 is not going to support the prosecution in question. Thus, nothing fruitful will come out of the prosecution case. Considering these facts and circumstances, the petition deserves to be allowed. Hence, Writ Petition is allowed in terms of prayer clause (a) & (b), which read thus:

“a) That this Hon’ble court may be pleased to quash and set aside FIR bearing No. Spl.L.A.C. no 16 of 2012 Dated 2/11/2012 register with L.T. Marg Police Station.

b) That this Hon’ble court may be please to quash case 181/PW/2013 pending before the addl.Chief Metropolitan Magistrate, 8th Court, Esplande, Mumbai under section 103, 104 of trade mark act read with the section 63 of the copy right act against Petitioners.”

7. The Petitioners will pay amount of Rs.25,000/- (Rupees Twenty Five Thousand) to the Police Welfare Fund viz. “*Mumbai Police Welfare Fund Account No.465010100008693; IFC code: UTIB0000465; Bank : Axix Bank ; Branch: Lamington Road*” within six weeks from today and this order is conditional upon payment of costs.

8. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)