

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

CRIMINAL WRIT PETITION NO.6425 OF 2021

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|--------|----------------------------|----------------|
| 1. | Yasmin Abdul Khalil Shaikh | |
| 2. | Kaif Abdul Khalil Shaikh | |
| 3. | Sabruddin H. Shaikh | |
| 4. | Nasreen Abubakar Khan | ...Petitioners |
| Versus | | |
| 1. | The State of Maharashtra | |
| 2. | Mumtaj Aarif Khan | ...Respondents |

Mr. Prashant Patil i/b Ms. Heena Suvarnakar, for the Petitioners.

Ms. S.D. Shinde, A.P.P for the Respondent No.1– State.

Ms. Saili Dhuru, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.***

DATE : 30th SEPTEMBER 2022

P.C. :

1. At the outset, learned counsel for the petitioners seeks leave to amend to add Nasreen Abubakar Khan, as party petitioner No.4. Leave granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

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. Ms. Dhuru waives notice on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing of the FIR bearing C.R. No. 584 of 2019, registered with the Kandivali Police Station, Mumbai, for the alleged offences punishable under Sections 354, 323, 452, 427, 143, 147, 149 of the Indian Penal Code. Quashing is sought essentially on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner Nos.1 and 3 are brother and sister and newly added petitioner No.4 is their mother and petitioner No.2 is the son of petitioner No.1. Respondent No.2 is the cousin of the petitioner Nos.1 and 3 and as such the parties are related to each other. It appears that there was a quarrel that had taken place, when the parties had gone to attend a marriage at Vapi,

Gujarat on 15th October 2019. Thereafter, there was some minor quarrels between the parties, in which the petitioners allegedly abused the respondent No.2. On 30th October 2019, the respondent No.2 has alleged that the petitioners came to her house and started assaulting her with fist blows and that when she started running, the petitioner No.3 held her from behind and as such outraged her modesty. The respondent No.2 has further alleged that the petitioner No.2 pulled her, pursuant to which her clothes were torn, and the petitioner No.1 allegedly damaged the respondent No.2's mobile handset and T.V., pursuant to which, the aforesaid FIR was lodged. Investigation is still in progress and charge-sheet has not been filed. It appears that in the interregnum, the parties have amicably settled their dispute having regard to the relations between them.

5. Learned Counsel for the respondent No. 2 has filed an affidavit of the respondent No.2 dated 8th April 2022. The said affidavit is on page 17 of the petition. In the said affidavit, she has stated that the aforesaid FIR was an outcome of some

misunderstanding that had taken place between her and the petitioner No.1, due to the previous quarrel which had taken place at Vapi, Gujarat. She has stated that the parties have amicably settled their dispute and that she has no objection to the quashing of the proceeding.

6. Respondent No. 2 is present in Court. On being questioned, she re-iterates what is stated by her in her affidavit. Learned counsel for the respondent No. 2 has tendered a self attested xerox copy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

7. Considering the amicable settlement between the parties, the relations between the parties and the judicial pronouncements of the Apex Court, in *Gian Singh vs. State of Punjab and Another*¹ and

¹ (2012) 10 SCC 303

*Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR bearing C.R. No. 584 of 2019, registered with the Kandivali Police Station, Mumbai and consequentially the proceeding arising therefrom, are quashed and set-aside.

9. The petitioners to deposit a sum of Rs.15,000/-, with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, as costs. The said costs to be deposited within two weeks from today.

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

² (2014) 6 SCC 466

11. Stand over to **21st October 2022**, for recording compliance of the said deposit of costs.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.