

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6682 OF 2021

Mr.Apurva Om Katare @ Joe Kataria
and another.

... Petitioners.

V/s.

The State of Maharashtra and another.

... Respondents.

Mr.Faisal F. Shaikh for the Petitioners.

Mrs.S.D.Shinde, APP for the Respondent- State.

Mr.Sushant Kulkarni for Respondent No.2.

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CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATE : 23 June 2022.

P.C. :

Heard the learned counsel for the parties.

2. By this petition, the Petitioners are seeking following
reliefs:

“(i) That this Hon’ble Court may be pleased to Quash and set side the FIR bearing C.R.No.580 OF 2020 for offences punishable under section 354, 509, 323, 504, 506 r/w 34 of the Indian Penal Code, 1860 registered by the officers of Respondent No.1/ Oshiwara Police Station, Mumbai.”

The reason for praying for quashing of the FIR is on the ground that the Respondent- Complainant has given her consent.

3. A complaint was lodged by Respondent No.2- Complainant on 16 December 2020 stating that the Respondent No.2 was a professional actor and she had known the Petitioner No.1 who was working as Video Director. The Petitioner No.2 is a student of Management Studies. The Respondent alleges that on 15 December 2020 at around 11.00 pm., when the Complainant was entering the premises of the housing society where she stays, the Petitioners accosted her and confronted about her video which was uploaded on the social media and, thereafter Petitioner No.2 pushed the Complainant down and slapped on her face. Accordingly, an FIR was lodged under sections 354, 509, 323, 504, 506 read with section 34 of the Indian Penal Code.

4. The petition came up on board on 13 June 2022 and the following order was passed:

“1. Heard learned counsel for the parties for some time. The Petitioner Nos.1 and 2 seek time to file an undertaking of repentance on or before the next date with the assurance that they shall not repeat the offence again.

2. In the meanwhile, learned APP to produce the investigating papers on record.

3. The presence of Respondent No.2 is dispensed with as we have interacted with her today in the court.

Her affidavit be placed on record. Respondent No.2 submits that her affidavit is by her freewill and without any pressure.

4. Stand over to 23/06/2022.”

5. The Petitioners and Respondent No.2 have filed consent terms wherein Respondent No.2 has agreed to give no objection for quashing FIR and the parties have agreed that they will not interfere in personal and professional life of each others. Petitioner Nos.1 and 2 also tendered their affidavits of apology. Petitioner Nos.1 and 2 have stated that they repent for what is happened which is also reiterated by the learned counsel for the Petitioners. The learned counsel for Respondent No.2 states that Respondent No.2 has gone through the affidavits of apology and has accepted the same. The learned APP has produced the statement of Respondent No.2 under section 164 of the Code of Criminal Procedure, 1973. We have gone through the said statement. It is not different than the FIR filed. In fact, this statement does not contain the statement in the FIR that the Complainant was pushed down.

6. Having considered the affidavits/undertakings and the submissions made before us, the case for exercise of an extra ordinary jurisdiction of this Court is made out to quash the FIR by consent of Respondent No.2. Since the parties have agreed not to interfere in personal and professional life of each others, not quashing the FIR would impede the settlement process agreed between the parties of

overall settlement. Keeping the prosecution pending will be harassment to all the parties and it is quite clear that it will not result in any conviction.

7. In the result, writ petition is allowed in terms of prayer clause (i).

8. Petitioner No.1 will pay Rs.25,000/- to the Mumbai Police Welfare Fund and Petitioner No.2 will pay Rs.5,000/- to the Mumbai Police Welfare Fund within a period of four weeks from today. The order is passed conditional upon this payment by the Petitioners.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)