

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

CRIMINAL WRIT PETITION NO. 4528 OF 2022

1. Mahesh Ramdas Koli
2. Pramod Koli
3. Omkar Laxman Koli
4. Laxman Havalaya Koli

...Petitioners

Versus

1. The State of Maharashtra
2. Harshada Sagar Patil

...Respondents

Mr. Pramod G. Kathane for the Petitioners

Mr. S. S. Hulke, A.P.P for the Respondent No.1-State

Mr. Anjaykumar Kori i/b Mr. Vikas J. Wagh for the Respondent
No. 2

PSI Mr. Soutade from Malvani Police Station, is present

PSI Mr. Mhaske, Pairavi Officer, is present

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
FRIDAY, 16th 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. Kori 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. 831/2021 with the Malwani Police Station, Mumbai for the alleged offences punishable under Sections 452, 354, 323, 324, 504, 506(2) r/w 34 of the Indian Penal Code and consequently the proceeding pending before the learned Metropolitan Magistrate, 24th Court at Borivali, Mumbai being CC No. 2404646/PW/2022. Quashing is sought on the premise that the parties have amicably settled their dispute.

4 Perused the papers. The petitioners and the respondent No. 2 are neighbours and reside in the same vicinity. According to the respondent No. 2, the incident took place on 27.05.2021 at

about 8 p.m, when the petitioners entered into her house and started quarreling, abusing and assaulting the respondent No. 2 and also alleged to have outraged the modesty of the respondent No.2. Pursuant thereto, the aforesaid FIR was lodged by the respondent No. 2 as against the petitioners alleging the aforesaid offences.

5 After investigation, charge-sheet was filed in the said case and the said case is presently pending before the learned Metropolitan Magistrate, 24th Court at Borivali, Mumbai, being CC No. 2404646/PW/2022.

6 With respect to the incident dated 27.05.2021, there is a cross complaint registered by the family members of the petitioner No. 1 as against the family members of the respondent No. 2.

7 During the pendency of the proceeding in the present CR and the cross CR, the parties amicably settled the dispute being neighbours, with the help of the respected members of the community.

8 Learned counsel for the respondent No. 2 has tendered a consent affidavit of the respondent No. 2 dated 17.10.2022 duly attested before the Assistant Registrar, High Court. To the said affidavit, is annexed a photocopy of the Aadhar Card of the respondent No. 2, duly attested by her. The same are taken on record. In the said affidavit, the respondent No. 2 has stated that the quarrel took place out of some difference of opinion and dispute between the family members of the parties and that the said dispute has now been settled amicably. She has further stated that she has no objection to the quashing of the FIR/proceeding initiated at her behest.

9 Respondent No. 2 is present in Court. On being questioned, the respondent No.2 reiterates what is stated by her in her affidavit. Learned counsel for the respondent No.2 has identified her. Learned A.P.P has verified the original Aadhar card of the respondent No.2.

10 By a separate order passed today, we have quashed the proceeding in the cross case i.e. in CR No. 830/2021, in view of the amicable settlement between the parties.

11 Considering the nature of dispute, the fact that the parties live in the same vicinity and are neighbours, the amicable settlement between them and the affidavit of the respondent No. 2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the petition.

12 The petition is accordingly allowed. The FIR bearing C.R. No. 830/2021 registered with the Malwani Police Station, Mumbai, as against the petitioners and consequently the proceeding pending before the learned Metropolitan Magistrate, 24th Court at Borivali, Mumbai, being CC No. 2404647/PW/2022, are quashed and set-aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.