

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 114 OF 2023

Dravesh Dattaram Kubal, aged
39 years, residing at House
No.691, Alto, Torda, Porvorim,
Bardez, North-Goa. ... PETITIONER

Versus

1. State Of Goa, through the
Public Prosecutor, Panaji-Goa.

2. The Police Inspector,
Calangute Police Station,
Calangute-Goa.

3. Ms. Gloria Marilyn Filomena
Flavia Mendes, aged 72 years,
residing at House No. 122A,
Dando Waddo, Candolim,
Bardez, North-Goa. ... RESPONDENTS

Mr Yogesh V. Nadkarni with Mr Nilay Naik, Advocates for
the Petitioner.

Mr Somnath Karpe, Additional Government Advocate for
Respondent Nos. 1 and 2.

Ms A. Keluskar, Advocate for Respondent No. 3.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 1st NOVEMBER 2023

ORAL JUDGMENT: (per Bharat P. Deshpande, J.)

1. Rule. Rule is made returnable forthwith. Heard the matter with consent for final disposal.
2. Heard Mr Nadkarni who appears with Mr Naik for the Petitioner, Mr Karpe, learned Additional Public Prosecutor for Respondent Nos. 1 and 2 and Ms Keluskar for Respondent No. 3.
3. The Petitioner preferred the present Petition under Section 482 of Cr.P.C. thereby praying to quash and set aside FIR No. 74/2023 dated 14.06.2023 registered at Calangute Police Station for the offences punishable under Section 354-D and 506 (ii) of IPC, on a complaint lodged by Respondent No. 3.
4. It is contended by the Petitioner that the matter between the Petitioner and Respondent No. 3 is now amicably settled. However, since the offence under Section 354-D of IPC is not compoundable, the parties were required to approach this Court.
5. Respondent No. 3 appeared and filed an affidavit claiming thereby that initially, there was some civil dispute between the

parties, for which, a civil suit was filed by the Petitioner in Mapusa Court. During the pendency of the said civil suit, Respondent No. 3, filed the present FIR against the Petitioner. It is then claimed that the civil suit pending between the parties is now settled by filing consent terms and the same has been disposed of on 29.09.2023. She then claimed that the parties settled their dispute with regard to the present complaint and therefore, has no objection to quashing FIR No. 74/2023.

6. We have perused the contents of the FIR wherein the allegations against the Petitioner are that he sent threatening and obscene language messages on the mobile phone of the informant/Respondent No. 3 and thereby committed the offence of stalking as well as threatening. The learned Counsel for the Petitioner submits that the mobile phone number mentioned in the complaint does not even belong to the Petitioner.

7. Be that as it may, Respondent No. 3 is a 72 year old lady whereas the Petitioner is 39 years old. The Petitioner entered into a leave and license agreement and since a dispute arose, he filed a suit against Respondent No. 3. Since the said suit is also now settled, both parties agreed that the FIR be quashed.

8. On perusal of the FIR and the complaint, it is clear that the same was lodged due to some civil dispute. Even otherwise, such

FIR and the contents of it are not against the society, if the prayer for quashing it is considered.

9. The Supreme Court while considering the powers under Section 482 of Cr.P.C. qua quashing of FIR on settlement, observed that if prayer for quashing on consent is not affecting the society, the same could be allowed as it would be putting an unnecessary burden on the dockets of the Court specifically when the dispute is of trivial nature and already settled between the parties.

10. In the case of **Gian Singh Vs. State of Punjab & Another**, (2012) 10 SCC 303 and in the case of **Narinder Singh & Others Vs. State of Punjab & Another**, (2014) 6 SCC 466, the Supreme Court laid down the proposition for quashing FIR on the basis of settlement.

11. The present matter squarely falls within the parameters laid down by the Apex Court in the above two decisions. However, since, Respondent No. 3 by filing the FIR, mobilised the police machinery and that the FIR was lodged followed by investigation, the parties must be put to some costs. Accordingly, we are inclined to quash FIR No. 74/2023 on the grounds of settlement between the parties, subject to a deposit of costs of ₹10,000/- by the Petitioner and another amount of ₹10,000/- by Respondent

No. 3 with the Goa State Legal Services Authority within a period of one week from today.

12. Accordingly, the Petition stands allowed. FIR No. 74/2023 filed on 14.06.2023 at Calangute Police Station for the offences punishable under Section 354-D and 506(ii) of IPC against the Petitioner is hereby quashed and set aside.

13. The Petitioner as well as Respondent No. 3 shall deposit an amount of ₹10,000/- each with the Goa State Legal Services Authority within a period of one week from today and place the receipt on record.

14. Rule is made absolute in the above terms.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

VAIGANKAR
ESHA SAINATH

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VAIGANKAR ESHA SAINATH
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