

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

CRIMINAL WRIT PETITION NO. 1371 OF 2022

1. Akash Kumar Chavan
Age-22 Yrs., Occ.-Business
2. Sunil Dasharath Kamathi
Age-43 Yrs., Occ.-Business
3. Ganesh Ram Kamathi
Age-17 Yrs., Occ.-Education
(Through his Legal Guardian
Smt. Aasha Ram Kamathi
Age – 48 Years, Occ.-Household)
4. Shivkumar Sunil Kamathi
Age-17 Yrs., Occ.-Education
(Through his Legal Guardian
Smt. Sunita Sunil Kamathi
Age – 37 Years, Occ.-Household)
5. Akash Ram Kamathi
Age-23 Yrs., Occ.-Business
6. Mahesh Durgadas Pawar
Age-22 Yrs.,
7. Manoj Somnath Bansode
Age-22 Yrs., Occ.-Business
All R/o. New Pachcha Peth, Solapur City

Dist. Solapur.

... Petitioners

Versus

1. State of Maharashtra
[Through Jail Road Police Station,
Dist.-Solapur Vide C.R. No. 165/2022]

2. Sanjay Kashinath Adagale
Age: 40 Years, Occ.-Business
R/o. New Pachcha Peth,
Solapur City, Dist.-Solapur.

... Respondents

Mr Ritesh Thobde a/w Changdev Shingade for the Petitioners.

Mr Sagar Tambe for the Respondent No.2.

Mrs S. D. Shinde, APP for the Respondent No.1-State.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 6 JULY 2023

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The Petitioners have filed this Criminal Writ Petition

under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR bearing C.R. No. 165 of 2022 dated 10 April 2022 registered at Jail Road Police Station, Solapur for the offences punishable under Sections 307, 427, 504, 506, 143, 147, 149 read with Section 34 of the Indian Penal Code, Section 135 of the Maharashtra Police Act, 1951 and Section 4/25 of the Arms Act. The Petitioners seek to quash the impugned FIR on the ground that they have amicably settled the dispute with respondent no.2.

4. The learned counsel for the Petitioner and Respondent No.2, jointly stated that the dispute arose from a misunderstanding and has been resolved. They submitted that continuing the prosecution would be pointless given their settlement and cited the decisions of the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*² to contend that the present case is squarely covered by the law laid down in these cases.

5. Learned APP for Respondent No.1 submits that

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

appropriate orders may be passed.

6. Respondent No.2 filed a consent affidavit dated 20 April 2022. Respondent No.2 is present in the Court and stated that he has no objection to the quashing of the impugned FIR against the Petitioners due to a settlement between them. Upon questioning, he confirmed the contents of his affidavit and was identified by his counsel. The learned APP has verified his original Aadhar Card, of which a self-attested copy is placed on record.

7. We have examined this case in light of the law laid down by the Hon'ble Supreme Court in the cases of ***Gian Singh and Narinder Singh (supra)***. Upon perusal of the record, *prima facie*, it appears that the allegations in the FIR as they stand and the medical papers, the ingredients of the offence under Section 307 of the Indian Penal Code, are absent. In such circumstances, allowing criminal prosecution to continue would be an abuse of the process of the Court and serve no purpose given the parties' settlement. To ensure justice is served, it would be appropriate to quash the impugned FIR. The consent affidavit filed on behalf of Respondent No. 2 supports the prayer of quashing the FIR. Having said so, and

on the facts noted above, the impugned FIR bearing C.R. No. 165 of 2022, registered with Jail Road Police Station, Solapur, against the Petitioners need to be quashed and set aside. Accordingly, the impugned FIR bearing C.R. No. 165 of 2022 dated 10 April 2022, registered at Jail Road Police Station, Solapur, for the offences punishable under Sections 307, 427, 504, 506, 143, 147, 149 read with Section 34 of the Indian Penal Code, Section 135 of the Maharashtra Police Act, 1951 and Section 4/25 of the Arms Act, is quashed and set aside, subject to condition that each of the Petitioners and Respondent No.2 pay a cost of Rs.25,000/- with the High Court Legal Services Authority, within three weeks of this order being uploaded.

8. Rule is made absolute in these terms and this Petition is disposed of subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

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PRITHIANI
Date: 2023.07.11
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