

DINESH
SADANAND
SHERLA

Digitally
signed by
DINESH
SADANAND
SHERLA
Date:
2023.11.08
15:21:13
+0500

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 569 OF 2021**

- | | | | |
|----|---------------------------|----------------|--|
| 1. | Sanjeev Kumar Singh | | |
| 2. | Mrs. Pinki Kumari Singh | | |
| 3. | Anurag Kumar | ...Petitioners | |
| | Versus | | |
| 1. | The State of Maharashtra | | |
| 2. | Bhawana Yogeshkumar Gupta | ...Respondents | |

WITH
WRIT PETITION NO. 570 OF 2021

- | | | | |
|----|---------------------------|----------------|--|
| 1. | Yogesh Kumar Gupta | | |
| 2. | Bhawana Yogeshkumar Gupta | | |
| 3. | Amol Popat Sawant | | |
| 4. | Kailas Yashwant Nikam | | |
| 5. | Sanjay Chenkar | | |
| 6. | Kalpesh Bindra | | |
| 7. | Siddharth Doke | ...Petitioners | |
| | Versus | | |
| 1. | The State of Maharashtra | | |
| 2. | Mrs. Pinki Kumari Singh | ...Respondents | |

Ms Ruchika Madalkar a/w. Mr. Ajaz Khan, Ms Saaniya Sait i/b Mr. Umesh Iyer for the Petitioners in WP/569/2021.

Ms. Ilsa Shaikh i/b Mr. Shantanu Phanse for the Petitioners in WP/570/2021.

Ms M.M. Deshmukh, APP for the Respondent No.2/State.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.**
DATE : 23 OCTOBER, 2023.

PC:-

. Leave to amend so as to place correct charge-sheet on record. Amendment to be carried out forthwith.

2. Both these petitions are filed to quash cross- First Information Reports.

3. The Writ Petition No. 569 of 2021 is filed to quash the FIR No.326 of 2020 dated 27 December 2020 registered at Kasarvadvali Police Station, Thane for the offences punishable under Sections 143, 147, 149, 323, 354, 504 and 506 of the Indian Penal Code, whereas the Writ Petition No. 570 of 2021 is filed to quash the FIR No.325 of 2020 dated 27 December 2020 registered at Kasarvadavali Police Station, Thane for the offences punishable under Sections 354, 323, 504, 506, 143, 147 and 149 of the Indian Penal Code.

4. The quashing of FIR by both the parties is sought on the ground that there has been an amicable settlement between them and thus they are no longer desirous of prosecuting the cases in question.

5. The learned counsel for the parties submit that on the date of incident, which took place on 27 December 2020, dispute arose between the parties, who are the owners of adjoining bungalows on trivial issue and thus cross FIRs alleging assault etc. came to be lodged. It is submitted that both the parties have amicably settled the dispute and decided not to prosecute the cases in question as the FIRs were lodged in the heat of passion. It is submitted that in view of the settlement arrived at between the parties no purpose would be served by keeping the prosecution alive. It is submitted that

the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of **Narinder Singh and ors. Vs. State of Punjab and anr**¹.

6. The complainant – Bhawana Gupa in Writ Petition No.569 of 2021 has filed the consent affidavit that she has no objection if the FIR in question is quashed in view of the settlement between the parties. Similar consent affidavit is filed by the complainant – Pinki Singh in Writ Petition No.570 of 2021.

7. The Hon'ble Supreme Court in *Narinder Singh (supra)* has held :

“ 29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases

¹ (2014) 6 SCC 466

would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

8. The parties are owners of adjoining bungalows. They have settled their dispute. In view of the settlement, the complainants are not going to support the prosecution case and therefore, possibility of conviction is remote and bleak.

Apart from it, if the FIRs in question are not quashed disharmony between the parties would remain as it is. Considering the overall facts and circumstances, in our view, both the Petitions deserve to be allowed. Both Petitions are thus allowed in terms of prayer clause (a), subject to payment of cost of Rs.10,000/- (Rupees Ten Thousand) by each petitioner, in both petitions, to the ***“Children AID Society bearing Account No. 02370100005612, UCO Bank, IFSC Code:UCBA0000237”*** within six weeks from today and the receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the criminal proceedings in both petition shall stand recalled.

10. Writ Petitions are disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)