

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

CRIMINAL WRIT PETITION NO. 375 OF 2019

Shri Amar Arjun Patil
Occ. Service,

2. Shri Vijay Arjun Patil
Occ. Agriculturist,

3. Shri Prakash Rajamar Patil
Occ. Agriculturist,

4. Shri Amar Bhimrao Patil
Occ. Agriculturist
All r/at Village Sainik Takali,
Tal. Shirol, Dist. Kolhapur.

...Petitioners

Versus

1. State of Maharashtra
Through Kurundwad Police Station
Kurundwad Tal. Shirol,
Dist. Kolhapur.

2. Shri Santaji Jaysing Patil
Occ. Agriculturist

3. Shri Dhanaji Jaysing Patil
Occ. Agriculturist

4. Shri Umesh Bajrang Patil
Occ. Agriculturist

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5. Shri Bandu Ramrao Patil
Occ. Agriculturist

6. Shri Arun Arjun Patil
Occ. Agriculturist

7. Shri Chandrakant Bapu Patil
Occ. Agriculturist

8. Shri Sachin Bajrang Patil
Occ. Agriculturist
All r/at Sainik Takali,
Tal. Shirol, Dist. Kolhapur

... Respondents

WITH
CRIMINAL WRIT PETITION NO. 326 OF 2019

1. Shri Santaji Jaysing Patil
Occ. Agriculturist

2. Shri Dhanaji Jayusing Patil
Occ. Agriculturist

3. Shri Umesh Bajrang Patil
Occ. Agriculturist

4. Shri Bandu Ramrao Patil
Occ. Agriculturist

5. Shri Arun Arjun Patil
Occ. Agriculturist

6. Shri Chandrakant Bapu Patil
Occ. Agriculturist

7. Shri Sachin Bajrang Patil
Occ. Agriculturist
All r/at Sainik Takali,
Tal. Shirol, Dist. Kolhapur

...Petitioners

Versus

1. State of Maharashtra
Through Kurundwad Police Station
Kurundwad Tal. Shirol,
Dist. Kolhapur.

2. Shri Amar Arjun Patil
Occ. Service,

3. Shri Vijay Arjun Patil
Occ. Agriculturist,

4. Shri Prakash Rajamar Patil
Occ. Agriculturist,

5. Shri Amar Bhimrao Patil
Occ. Agriculturist
All r/at Village Sainik Takali,
Tal. Shirol, Dist. Kolhapur.

... Respondents

Mr Kiran C. Shirguppe for Petitioners in wp 375/2019.
Ms. Anushka Shreshtha for petitioner in wp 326/19 and
respondent in wp 375/19.

Mr K.V. Saste, APP for the State.

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

DATE : 06 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 the parties. The petitions are taken up for final disposal. The learned counsel appearing for the parties waive notice on behalf of the respective parties.

3. The Criminal Writ Petition No.375/2019 is filed for quashing the C.R.No.48/2008, registered against the petitioners with Kurundwad Police Station for the alleged offences punishable under Sections 326,324,379,427,504, 506,143 and 147 of Indian Penal Code, and under Section 135 of B.P. Act and the proceedings arising from it vide R.C.C. No.60/2008, pending before the learned JMFC, Kurundwad.

4. The Criminal Writ Petition No.326/2019 is filed for quashing the C.R. No.46/2008, registered against the petitioners with Kurundwad Police Station for the alleged

offences punishable under sections 326,323,504,506,143,147 of Indian Penal Code and under Section 135 of B.P. Act as well as for quashing the judgment of conviction delivered by the learned JMFC, Kurundwad in R.C.C. No.74/2008 dated 25 February 2010, against which an appeal vide a Criminal Appeal No.12/2010 is pending before the Sessions Judge, Jaysingpur.

5. The Petitioners in Writ Petition No.375/2019 are Respondents No.2 to 5 in Writ Petition No.326/2019, and the Petitioners in Writ Petition No. 326/2019 are Respondents No.2 to 8 in Writ Petition No.375/2019.

6. Both the aforesaid FIRs are with respect to the same incident that occurred on 18 May 2008. On the day of the incident, they assaulted each other outside Raigad Palace Dhaba and filed FIR against each other.

7. These petitions are filed for quashing and setting aside the aforesaid FIRs and conviction order passed in consequential proceedings arising out of the impugned FIR No.46/2008. In both the petitions, Petitioners and Respondents have filed Consent Terms stating that they are relatives and matter is amicably settled between them and that

due to some misunderstanding, respective FIRs were lodged against each other.

8. The Petitioners and Respondents in these petitions are present before the Court and are identified by their respective counsel. Respondent No.2 Santaji Jaysing Patil, Respondent No.8 Sachin Bajrang Patil and Respondent No.4 Vijay Arjun Patil and Respondent No.3 Dhanaji Jaysing Patil in WP No.375/2019, and Respondent No.2 Amar Arjun Patil in WP No.326/2019 have tendered their consent affidavits. The Petitioners and Respondents in these petitions have also tendered their Consent Terms extending the consent for quashing the respective FIRs lodged by them against each other and are identified by their counsel. When questioned, they confirmed the contents of their respective affidavit and the consent terms. Learned APP has verified their original Aadhar cards.

9. The learned counsel for the respective parties submitted that the parties want to put an end to their dispute and lead a peaceful life. They submitted that even after the conviction, the matter could be amicably settled. In support of their contention, they relied on the judgment of the Hon'ble

Supreme Court in *Rajeevan & Anr. v/s. State of Kerala & Ors.*¹. According to them, even otherwise the trial in R.C.C. No.74/2008 is vitiated as the cross cases were not tried together.

10. We have examined the facts of these cases. It is not in dispute that both parties lodged an FIR against each other in respect of the same incident. The trial was concluded in the proceedings arising out of FIR No.46/2008; however, the trial arising out of FIR No.48/2008 is still pending. In this respect, the Hon'ble Supreme Court in *Nathi Lal & Ors v/s. State of U.P. & Anr.*² observed in para-2 as follows:

“2. We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter, he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate

1 2014 ALL MR (Cr.) 4188 SC

2 1990 Supp SCC 145

judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the Judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.”

11. Considering the nature of the allegations, the nature of the dispute between the parties, their relations with each other, the amicable settlement between the parties, the prayer of the Respondents in these petitions and the settled principle of law in the cases of Rajeevan (supra), *Gian Singh v/s. State of Punjab & Anr.*³ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*⁴ there appears to be no impediment to allow these writ petitions subject to payment of costs of Rs.5000/- by each of the Petitioners in both the petitions with Kirtikar Law Library, Mumbai. Accordingly, we quash and set aside the impugned FIR No.46/2008 and the conviction order of the

³ (2012) 10 SCC 303.

⁴ (2014) 6 SCC 466.

learned JMFC, Kurundwad, in RCC No.74/2008 dated 25 February 2010 against which an appeal vide Cr. Appeal No.12/2010, is pending before the Sessions Judge, Jaysingpur. The Petitioners are acquitted of the said offence. Similarly, we allow the Writ Petition No.375/2019 in terms of prayer clause (a), which reads thus:

“(a) This Hon’ble Court be pleased to quash the proceedings pending before learned JMFC, Kurundwad in the matter Regular Cr. Case No.60 of 2008, its FIR registered at Kurundwad Police Station, its C.R. No. 48/2008 under Section 326, 324,379,504,506, 143,147 of IPC and B.P. Act under Section 135.”

12. Rule is made absolute in the aforesaid terms in both the Criminal Writ Petitions subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.