

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.718 OF 2020

1. Mayur Ganpat Narkar	]	
2. Surendra Gaonkar	]	
3. Nitesh Kaviskar	]	
4. Mahadev Gaonkar	]	
5. Vishal Jaitapkar	]	
6. Satyavan Kankekar	]	
7. Yogesh Kanade	]	
8. Satish Gaonkar	]	
9. Abhay Babar	]	
10. Pravin Narkorolu	]	
11. Amar Kankekar	]	
12. Mangesh Kanade	]	Petitioners

Vs.

1. The State of Maharashtra	]	
2. Sudhir Tukaram Chavan	]	Respondents

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(corrected in **bold** as per order dated 1.3.2023)

Ms. Savani Vare i/b Mahalakshmi Ganpathy, for Petitioners.

Ms. P.P. Shinde, A.P.P, for Respondent No.1-State.

Mr. Deepak Gautam i/b Mr. Prakash Vare, for Respondent No.2.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 4th January, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]

1. Heard.

2. Rule.

3. Rule is made returnable forthwith, with the consent of the parties. Petition is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1-State. Mr. Gautam, learned Counsel waives notice on behalf of respondent No.2.

5. By this petition under Article 227 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973

(for short "Cr. P.C"), the petitioners seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.194 of 2012 with Agripada Police Station, Mumbai for the alleged offences punishable under sections 143, 144, 145, 147, 148, 149, 323, 324, 336 and 397 of the Indian Penal Code (for short "I.P.C") and sections 37 (1) (a) of the Bombay Police Act and consequently, proceeding pending before the Sessions Court, Mumbai being Sessions Case No.250 of 2014. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as follows.

7. On 12th October, 2012, respondent No.2-first informant - Sudhir Tukaram Chavan had lodged a report with Agripada Police Station, Mumbai against the petitioners. He alleged that three to four days prior to the report, petitioner No.1-Mayur Ganpat Narkar - Head of Maharashtra Navnirman Seva, Branch-205 had been to one Shri Chetan Joshi, partner of Komal Developers for a donation on the eve of Navratri Festival. It is

alleged that petitioner No.1 stated that as the construction site of the said developer falls within so-called jurisdiction of petitioner No.1, the developer should donate him some amount. Mr. Chetan Joshi, therefore, asked the respondent No.2 to verify and ultimately it transpired that no construction site of the developer is within the so-called jurisdiction of the petitioner No.1. The petitioner No.1 came to know about the same and, therefore, there was a wordly duel between petitioner No.1 and respondent No.2.

8. On 12th October, 2012, in the afternoon, petitioner No.1 had been to the house of respondent No.2. He had threatened and manhandled the respondent No.2. Since respondent No.2 also belongs to the same political party, he thought it fit not to approach the Police. Some senior leader of the said party summoned both petitioner No.1 and respondent No.2 and convinced them to resolve the dispute.

9. However, all the petitioners formed an unlawful assembly and committed rioting armed with deadly weapons such as

sticks, iron rods, stones etc. In the said melee, respondent No.2 and some other persons sustained injuries. It is further alleged that the petitioners had robbed respondent No.2 with some valuable articles.

10. Pursuant to an F.I.R lodged by respondent No.2, offences as alleged came to be registered against the petitioners. After investigation, a charge-sheet came to be filed against the petitioners which was committed with the Sessions Court since section 397 of the I.P.C is exclusively triable by the Sessions Court.

11. The parties have now appeared before this Court and submit that the dispute between them has been amicably settled owing to the fact that all of them belong to one political party. It is submitted on behalf of respondent No.2 and the petitioners that the fight took place in a spur of moment between the fractions of the said group. Admittedly, there is a cross F.I.R lodged by the petitioners against respondent No.2 and others under sections 143, 145, 147, 148, 323, 336, 324 of the I.P.C

and section 37 (1) (a) of the Bombay Police Act bearing F.I.R. No.195 of 2012.

12. Respondent No.2 has sworn an affidavit before the Notary Public stating that the fight took place in the spur of moment between two parties. The said affidavit dated 5th March, 2020 is annexed with the petition. In the said affidavit, respondent No.2 has stated that now they have amicably settled the dispute between them. He has further stated that he has no objection for quashing of the FIR/Proceeding initiated at his behest against the petitioners, in view of the amicable settlement.

13. Petitioner No.1 had also filed an F.I.R No.195 of 2012 against respondent No.2 and other persons. By a separate order, we have quashed the proceeding in the cross case, in view of the amicable settlement between the parties.

14. Respondent No.2 is present in the Court. On being questioned, respondent No.2 reiterates what is stated by him in his affidavit. Learned Counsel appearing for respondent No.2

has tendered photostat copy of the Aadhar Card of respondent No.2 duly attested by him. The same is taken on record. Learned Counsel for respondent No.2 has identified him. Learned A.P.P has verified the original Aadhar Card of respondent No.2.

15. Learned Counsel for the petitioners has placed on record affidavits of; (a)Mahesh More, (b)Rutuja Chavan, (c)Rohit Pawar, (d)Tarkesh Chavan (e)Rizwan Ansari and (f)Prathmesh Chavan. In all these affidavits, the deponents have stated about amicable settlement arrived at between them. Affidavits of the aforesaid persons reveal the injuries to be simple in nature in the form of CLW's.

16. Considering the nature of the dispute, the fact that the parties live in the same vicinity, the amicable settlement between them and the affidavit of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh**

¹ (2012) 10 SCC 303

and others Vs. State of Punjab and another², there is no impediment in allowing the petition.

17. The petition is accordingly allowed. The F.IR bearing C.R. No.194 of 2012 registered with the Agripada Police Station, Mumbai, as against the petitioners and consequently, the proceeding pending before the Sessions Court, Mumbai being Sessions Case No.250 of 2014, are quashed and set aside.

18. The petitioners to deposit a sum of Rs.30,000/- with **Jeevan Sandhya Mangalya Sansthan**. Bank details are as under:

Name of Account	Jeevan Sandhya Mangalya Sansthan
Account No.	60134381699
Type of Account	Saving
Name of Bank	Bank of Maharashtra
Branch	Padgha
IFSC Code	MAHB0000189
PAN NO	AAATJ2015Q

The said costs to be deposited within three weeks from today.

19. Rule is made absolute in the aforesaid terms. Writ petition is disposed of accordingly.

² (2014) 6 SCC 466

20. Matter to be kept for recording compliance regarding deposit of costs, on **30th January, 2023**.

21. All parties to act upon an authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]