



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

CRIMINAL WRIT PETITION NO. 776 OF 2022

Stanley Brian Francis Almeida

Age 58 years

R/at: A/401, Kingston Tower,
Building No.22, Chunle Road,
Vasai(W), Umle, Palghar.

... Petitioner

Versus

1. The State of Maharashtra

(At the instance of the P.I.

Manikpur Police Station, Palghar
vide C.R. No.450/2021)

2. Rajesh Shridharan Chulliparmiballa

Age 45 years, Occ: Service,

Room No.B/101, Dream Tower 2,

Kaul Heritage City, Babhola,

Vasai, Dist. Palghar

... Respondents

Mr Aashish Satpute for Petitioner.

Mr J P Yagnik, APP for the State.

Mr Piyush Toshnival i/b Ashish Pawar for respondent No.2.

Mr T.D.Bhopale, PSI, Manikpur Police Station present.

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

DATE : 7 JULY 2023

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

Heard learned counsel for the parties.

2. Leave to amend. Amendment be carried out forthwith. Liberty to place on record the charge-sheet.

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

4. The Petitioner has filed this Criminal Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR bearing C.R.No. 450 of 2021 dated 25 November 2021 registered at Manikpur Police Station, Palghar, for the offences punishable under Sections 323 and 326 of the Indian Penal Code, and the proceedings arising therefrom. The petitioner seeks quashing on the ground that he has amicably settled the dispute with Respondent No.2.

5. The First Information Report was lodged at the instance of Respondent No.2, who was a friend of the Petitioner. On

24 November 2021, the Petitioner and Respondent No.2 met. The Petitioner was a cook and he had requested Respondent No.2 to have food with him. In the meantime, both of them consumed liquor. At that time, suddenly the Petitioner picked up a liquor bottle and hit the informant on his head.

6. When this Criminal Writ Petition was placed before us, learned counsel for the Petitioner and Respondent No.2, in unison, submitted that parties have settled their dispute amicably and that continuing the prosecution would serve no purpose. According to them, *prima facie*, no case is made out against the Petitioner for the offence punishable under Section 326 of the Indian Penal Code. They submitted that this case falls under the purview of the law laid down by 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

7. The record shows that Respondent No.2 has filed consent affidavit on record stating therein that the incident occurred due to spur of moment and there was no intention on the part of Petitioner, who is his friend, to hit him and they have amicably settled their dispute and do not want to

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

proceed with the matter. He is present before the Court and reiterated the contents of his affidavit and was identified by his counsel. Learned APP has verified his original Aadhar Card.

8. It reveals from the record, more particularly, the medical certificate that all the injuries suffered by Respondent No.2 were simple in nature. The injury certificate records assault by one unknown person and at the time of examination, Respondent No.2 was found under the influence of alcohol. Considering these aspects and the nature of allegations, the situation at the spot, the relation between the parties, amicable settlement between them, the no objection of Respondent No.2 and the settled principle in law *Gian Singh* and *Narinder Singh (supra)*, we see no impediment in allowing this Writ Petition.

9. Accordingly, we quash and set aside the FIR bearing C.R. No. 450 of 2021, registered at Manikpur Police Station, Palghar, against the Petitioner and the proceedings arising therefrom, subject to payment of costs of Rs.20,000/- by the Petitioner and Rs.10,000/- by Respondent No.2, to be paid to the Kirtikar Law Library, Mumbai, within three weeks of this

order being uploaded.

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

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.