

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

CRIMINAL WRIT PETITION NO. 1592 OF 2023

Mr. Rakesh Uttam Kadam

Age: 35 yrs., Occupation: Service

Residing At: 106/4, Tulsi Wadi,

Gun Powder Road,

Rahul Boudh Vihar,

Mazgaon, Mumbai – 400 010.

... Petitioner

Versus

1. State of Maharashtra

Through Byculla Police Station,
Mumbai.

2. Mr. Shailendra Rajendra Jadhav

Age: 31 yrs Occupation: Nil,

Having address at: Room No. 03/115,

Patra Chawl, Tulsi Wadi,

Gunpowder Road, Mazgaon,

Mumbai – 400 010.

... Respondents

Ms Tahera Qureshi for the Petitioner.

Mr Khalid M. I. Ansari for the Respondent No.2.

Mr K. V. Saste, 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 Petitioner has 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. 65 of 2023 dated 10 February 2023 registered at Byculla Police Station for the offences punishable under Sections 323, 324 and 504 of the Indian Penal Code. The Petitioner seeks to quash the FIR on the ground that he has 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 due to some misunderstanding, which has been settled amicably. They submitted that continuing the prosecution would serve no purpose, given their settlement. 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

5. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

6. Respondent No.2 has filed his consent affidavit dated 5 March 2023. Respondent No.2 is present in the Court and stated that he has no objection to the quashing of the impugned FIR against the Petitioner 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)*. 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.

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

Having said so, and on the facts noted above, the impugned FIR bearing C.R. No. 65 of 2023, registered with Byculla Police Station against the Petitioner, needs to be quashed and set aside. As we expressed our opinion, the learned counsel for the Petitioner and Respondent No.2, on instructions, submitted that the Petitioner and Respondent No.2 will pay costs of Rs.5,000/- each to the Kirtikar Law Library, Mumbai. The statement is accepted as an undertaking given to this Court. We, therefore, direct the Petitioner and Respondent No.2 to pay costs of Rs.5,000/- each within three weeks of this order being uploaded. Accordingly, the impugned FIR bearing C.R. No. 65 of 2023 dated 10 February 2023 registered at Byculla Police Station for the offence punishable under Sections 323, 324 and 504 of the Indian Penal Code is quashed and set aside.

8. 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.

BIPIN
DHARMENDER
PRITHIANI

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DHARMENDER
PRITHIANI
Date: 2023.07.13
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