

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

CRIMINAL WRIT PETITION NO. 1315 OF 2022

1. Mr Lalit Sohanraj Jain

Age: 50 years, Occ: Business,
R/at: Flat No.604, Building P-03 Empire
Estate, Chinchwad – Pune-19.

2. Mr Rahul Hiralal Bhadari

Age: 37 years, Occ: Business,
R/at: Row House No.5, Jagdish Nagar,
Rachana Garden Estate, Near Kasturba
Chowk, Ganeshkhind, Anudh,
Pune – 411 007.

... Petitioners

Versus

1. The State of Maharashtra,
Through Inspector Incharge Nigadi
Police Station Pune to be served
through Public Prosecutor,
High Court, Mumbai.

2. Mr Vinod Bhaurao Patil

Aged 48 years, of Pune, an adult
Indian Inhabitant, Residing at
Bungalow No.9, Z. P. Colony,
Near Ganesh Colony, National Highway,
District Jalgaon, Maharashtra

... Respondents

Mr Vijay Upadhyay for the Petitioners.

Ms Asha Kanzariya i/by Girish Jain for the Respondent No.2.

Mrs S. D. Shinde, APP for the Respondent No.1-State.

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

DATE : 18 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 Petitioners have 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 No. 422 of 2021 dated 25 August 2021, registered at Nigadi Police Station, Pune for the offences punishable under Sections 420, 306, 506 read with 34 of the Indian Penal Code. The Petitioners seek to quash the impugned FIR on the ground that they have amicably settled the dispute with Respondent No.2.

4. The learned counsel for the Petitioners and Respondent No.2 jointly stated that in Writ Petition No. 6464 of 2021 decided on 17 January 2022, this Court quash the FIR against the co-accused, namely Santosh Ramvatar Agarwal and Rajesh Jagdish Prasad Agarwal, in this crime. 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. The learned APP opposes the Petitioners request and submits that the offence is serious and, therefore, this Court should not consider the settlement between the parties.

6. Learned counsel for Respondent No.2 has placed on record an affidavit dated 24 August 2022 on behalf of Respondent No.2. Respondent No.2 is present in the Court and has stated that he has no objection to quashing the FIR against the Petitioners 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, a self-attested copy of

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

which is placed on record. Respondent No.2 stated that the Petitioners were not present at the time of incident and he received the entire amount to be recovered from them.

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)* and found that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. Taking into consideration, the peculiar facts and circumstances of the case, there is no impediment to quashing the FIR. Intentional aiding and active complicity are essential ingredients of Section 107 of the Indian Penal Code which appear to be lacking. Additionally, the FIR against co-accused was already quashed. The consent affidavit filed on behalf of Respondent No.2 supports quashing the FIR.

8. As we expressed our opinion, the learned counsel for the Petitioners, on instructions, submitted that Petitioners will pay costs of Rs.25,000/- each to Kirtikar Law Library, Mumbai. The statement is accepted as an undertaking given to this Court. We, therefore, direct the Petitioners to pay costs of Rs.25,000/- each within three weeks from when this order is uploaded. Accordingly, the impugned FIR bearing C.R. No. 422 of 2021 dated 25 August 2021 registered at Nigadi Police

Station, Pune, for the offences punishable under Sections 420, 306, 506 read with 34 of the Indian Penal Code is quashed and set aside.

9. Rule is made absolute in these terms, and this Petition is disposed of subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by BIPIN
DHARMENDER
PRITHIANI
Date: 2023.07.26 10:33:53
+05'30