

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

CRIMINAL WRIT PETITION NO. 1456 OF 2023

1. Mr. Jayram Hari Malik	}	
2. Mr. Yashoda Jayram Malik	}	
3. Mr. Rahul Jayram Malik	}	
4. Mr. Pinty@ Reshma Jayram Malik		
@ Reshma Dattatray Sirke	}	Petitioners/Accused.

Versus

1. The State Of Maharashtra		
(At the instance of Kinavali		
Police Station, Thane)	}	
2. Mr. Sudhakar Savlaram Pawar.	}	Respondents

Mr. Balwant V. Salunkhe for the Petitioner.

Mr. M.H. Mhatre, APP for the Respondent No.1/State.

Mr. Vinay Dinkar for the Respondent No. 2

CORAM	:	SUNIL B. SHUKRE AND
		M.M. SATHAYE, JJ.
Date	:	24th APRIL, 2023.

ORDER (Per M.M.SATHAYE, J.):

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 1/State. Learned Counsel for Respondent

No.2/complainant waives service. Taken up for final hearing with consent of parties.

2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Criminal Procedure Code 1973, the Petitioners, who are co-accused are seeking to quash by consent, a crime registered against them under FIR No.228 Of 2019 registered against them with Kinhavali Police Station, Thane-Gramin, for offences punishable under Sections 323,324,506 r/w 34 of the Indian Penal Code & Section 3(1) (r) (s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 and consequent criminal case bearing Sp.C. No. 36 of 2021 pending before Sessions Court at Kalyan, Dist. Thane.

3. Learned counsels for the Petitioners and Respondent No. 2/complainant jointly state that now the matter is amicably settled and Respondent No. 2 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime in this petition.

4. Perusal of the FIR dated 24th November, 2019 shows that it is alleged by Respondent No.2 that on 23rd November, 2019, when he requested the Petitioners not to take their tractor over a certain agriculture land/road where PUC pipes were laid by him for agriculture purpose, the Petitioners insulted him with casteist slur and also beat him up. In the ensuing dispute, the aforesaid FIR was filed. It appears that the matter was investigated and a criminal case has been filed in Sessions Court.

5. Perusal of affidavit now affirmed by Respondent No. 2 on 27th March, 2023 shows that the dispute between him and the petitioners is amicably settled. He has stated that he does not wish to pursue the criminal proceedings any further against the Petitioners. It is further stated that parties are residing in same village and therefore, they have decided to settle the dispute and grievances. Finally Respondent No. 2 has given no objection to quashing of impugned FIR and all the consequent proceedings. We have perused the injury certificate produced on record at page 36 which is issued by concerned medical officer after examination of Respondent No. 2, which shows the nature of injury as simple.

6. All Petitioners & the Respondent No. 2 / complainant are present personally today in the Court and they are identified by their respective advocates. On inquiry by us, they stated that they have settled the matter voluntarily, without any pressure or coercion.

7. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private and civil in nature, arising out of differences that arose during land tilling and agriculture activity. From the affidavit of Respondent No. 2 coupled with his statement made today in this Court, it appears that he is not willing to prosecute the matter any further and as such, we are of the considered view that if Petitioners are made to face the trial, it will be an exercise in futility. We are also of the view that if the parties who are residing in the same village have decided to settle the matter amicably, no public policy will be offended if such settlement is allowed and the crime is quashed.

8. In the net result, we pass following order:

(i) Writ Petition is allowed.

(ii) Impugned FIR No.228 Of 2019 registered with Kinhavali Police Station, Thane-Gramin, for offences punishable under Sections 323,324,506 r/w 34 of the Indian Penal Code & Section 3(1) (r) (s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 and consequent criminal case bearing Sp.C. No. 36 of 2021 pending before Sessions Court at Kalyan, Dist. Thane against the Petitioners, are quashed and set aside.

(iii) This is subject to condition precedent that Petitioners together shall deposit an amount of Rs. 500/- within 4 weeks from today, in the account of High Court Legal Aid Fund(Account No. 60045304283 Bank Name: Bank of Maharashtra Branch: Fort Branch IFSC Code MAHB0000002).

(iv) It is clarified that if the amount is not deposited as stipulated above, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.

(v) Rule is made absolute in the above terms. No order as to costs.

(vi) Stand over by 4 weeks, to be placed before Registrar (Judicial-II) for reporting compliance. Registrar to close the matter, if this Order is complied.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)