

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

CRIMINAL WRIT PETITION NO. 2153 OF 2023

1. Salman Haji Mohammed Latif
Adult, Indian Inhabitant, aged about 53 years
Occ. Business
2. Mohammed Mustafa Salman Latif
Adult, Indian Inhabitant, aged about 23 years
Occ. Business
Both residing at A-2703, Orchid Enclave,
Belasis Road, Mumbai Central,
Mumbai – 400 008. ... Petitioners

Versus

1. The State of Maharashtra,
through Incharge, Nagpada Police Station,
To be served through Public Prosecutor,
High Court (A.S.), Mumbai.
2. Imran Jamal Merchant,
Age: 31 yrs,
Adult, Indian Inhabitant, permanent resident
of Room No.1704, B-wing, Orchid Enclave,
Belasis Road, Nagpada,
Mumbai – 400 008. ... Respondents

Mr Ashok M. Saroagi a/w Amit Dubey for the Petitioners.

Mr Mosin Naik a/w Sajid Qureshi for the Respondent No.2.

Mrs A. S. Pai, Govt. Pleader a/w Mr K. V. Saste, APP for the Respondent No.1-State.

***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. 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 Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR No. 966 of 2022 dated 7 December 2022, registered at Nagpada Police Station for the offence punishable under Sections 406, 420, 120B 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 the dispute was purely civil and had been resolved 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 15 May 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 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, 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)*. Based on the material on record, it is

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

clear that this dispute has a predominantly civil flavour. Allowing criminal prosecution to continue would be an abuse of the process of the Court and serve no purpose given the parties' settlement. The dispute is a private and has no repercussions for society in general. 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 to quash the impugned FIR. Having said so, and on the facts noted above, the impugned FIR No. 966 of 2022, registered with Nagpada Police Station against the Petitioners, needs to be quashed and set aside.

8. As we expressed our opinion, the learned counsel for the Petitioners and Respondent No.2, on instructions, submitted that each of the Petitioners and Respondent No.2 will pay costs of Rs.50,000/- to the Kirtikar Law Library, Mumbai. The statement is accepted as an undertaking given to this Court. We, therefore, direct each of the Petitioners and Respondent No.2 to pay costs of Rs.50,000/- within three weeks of this order being uploaded. Accordingly, the impugned FIR bearing C.R. No. 966 of 2022 dated 7 December 2022 registered at Nagpada Police Station for the offence punishable under Sections 406, 420 and 120-B read with Section 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.

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