

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.987 OF 2022**

1. Joel Francis D'Souza	]	
2. Anthony Brian D'Souza	]	
3. Zenia Jessica D'Souza	]	Applicants
Vs.		
1. The State of Maharashtra	]	
2. Peter John Saldanha	]	Respondents
a/w		

CRIMINAL APPLICATION NO.1385 OF 2022

1. Peter John Saldanha	]	
2. Glowchell Saldanha	]	
3. Josephine Samuel	]	Applicants
Vs.		
1. The State of Maharashtra	]	
2. Joel Francis D'Souza	]	Respondents

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Mr. Brian A Dlima, for Applicants in Criminal Application No.987 of 2022 and for Respondent No.2 in Criminal Application No.1385 of 2022.

Ms. Irine Dlima, for Applicants in Criminal Application No.1385 of 2022 and for Respondent No.2 in Criminal Application No.987 of 2022.

Mr. K.V. Saste, for Respondent No.1-State in both the Applications.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 1st MARCH, 2023.

COMMON ORDER: [Per Prithviraj K. Chavan, J.]

1. Heard.
2. Rule.
3. Rule is made returnable forthwith. With the consent of the parties, applications are taken up for final disposal.
4. Learned A.P.P waives notice on behalf of respondent No.1-State and Ms. Irine M. Dlima, learned Counsel waives notice on behalf of respondent No.2 in Criminal Application No.987 of 2022 and Mr. Brian A. Dlima, learned Counsel waives notice on behalf of respondent No.2 in Criminal Application No.1385 of 2022.
5. By these applications under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the applicants seek quashing of the F.I.Rs' registered vide C.R. No.820 of 2019 with Bandra Police Station, Mumbai for the alleged offences punishable under sections 323, 504, 506 (2), 509 r/w 34 of the Indian Penal Code (for short "I.P.C") and C.R. No.819 of 2019 for the alleged offences punishable under sections 452, 323, 504, 506 (2), 509 r/w

34 and consequently, the proceedings pending before the learned Metropolitan Magistrate, 12th Court, Bandra, Mumbai being Case No.21/PW of 2020 and Case No.20/PW/2020. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as under.

7. Applicant No.1 and 3 are the son and wife respectively of applicant No.2. Elder sister of applicant No.2 deceased Eva Saldanha passed away in 2007. She was married to respondent No.2. The applicants are thus related as nephew, brother-in-law and sister-in-law respectively of respondent No.2. After the death of Eva Saldanha, differences and dispute arose on account of business between the applicants and the respondent No.2 as well as daughter of the respondent No.2 namely Glowchell Saldanha.

8. An F.I.R bearing No.819 of 2019 came to be lodged as above on 1st October, 2019 with Bandra Police Station against the respondent No.2, his daughter and sister under sections 452, 323, 504, 506 (2), 509 r/w 34 of the I.P.C. It is alleged that as a counterblast, respondent No.2 had lodged F.I.R No.820 of 2019

with the same Police Station under sections 323, 504, 506(2), 509 r/w 34 of the I.P.C. After investigation, charge-sheets came to be filed in the 12th Court of learned Metropolitan Magistrate, Bandra, Mumbai by the respondent No.1. The said cases are now for framing charges.

9. The parties have now decided to amicably settle the dispute being close family members, pursuant to which, respondent No.2- Peter Saldanha has sworn an affidavit dated 6th July, 2022, duly notarized before the Notary, which is at page No.23 of the petition. Ms. Irime Dlima, learned Counsel for the respondent No.2 has also tendered consent affidavits of Glowchell Saldanha and Ms. Josephine Samuel dated 2nd March, 2023 duly notarized before the Notary. Joel Francis D'Souza has sworn an affidavit dated 16th July, 2022 duly notarized before the Notary, which is annexed at page No.21 of the petition. Mr. Brian Dlima, learned Counsel has also tendered consent affidavits of Anthony Brian D'souza and Zenia Jessica D'Souza dated 2nd March, 2023 duly notarized before the Notary. In the said affidavits, they have given their no objection to quashing of the criminal proceedings registered against each other, in view of amicable settlement between them.

10. Glowchell Saldanha, Josephine Samuel, Anthony Brian D'Souza and Zenia Jessica D'Souza are present in Court. On being questioned, they reiterate what is stated by them in their affidavit. Photostat copies of the Aadhar Cards of the aforesaid persons duly attested by them are tendered. The same are taken on record. Learned Counsel appearing for them have identified them. Learned A.P.P has verified their original Aadhar Cards.

11. Considering the nature of the dispute, relations between the parties, amicable settlement between them, affidavits of Peter John Saldanha, Glowchell Saldanha, Josephine Samuel, Anthony Brian D'Souza and Zenia Jessica D'Souza and having regard to the judicial pronouncements of the Apex Court in case of **Gian Singh Vs. State of Punjab and another¹** and **Narinder Singh and others Vs. State of Punjab and another²**, there is no impediment in allowing the applications.

12. The applications are accordingly allowed. The F.I.Rs' registered bearing No.820 of 2019 and 819 of 2019 registered with Bandra Police Station, Mumbai, as against the applicants and

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

consequently the proceeding pending before the learned Metropolitan Magistrate, Bandra being Case No.21/PW/2020 and Case No.20/PW of 2020, are quashed and set aside, subject to applicants in both the applications depositing costs of Rs.25,000/-. Applicants in Criminal Application No.987 of 2022 shall deposit costs of Rs.25,000/- with "Anandashram Satara", details of which are as under:

Bank Name	I.D.B.I
Bank Account Name	Anandashram Satara
Bank Account Number	45110010950945
IFSC Code	IBKI0000451

and applicants in Criminal Application No.1385 of 2022 shall deposit costs of Rs.25,000/- with "**District Probation and Aftercare Association, associated Children Home for Boys and Girls and Aadhar Children Home, Satara**", details of which are as under:

Account Number	0070302001120000
Bank Name	Janata Sahakari Bank, Satara

The said costs to be deposited within four weeks from today.

13. Rule is made absolute in the aforesaid terms. Applications are disposed of accordingly.

14. Matter be listed for recording compliance regarding deposit of costs, on **5th April, 2023**.

15. All concerned to act on the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]