

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2958 OF 2023

- | | | | |
|----|---------------------------|-----|-------------|
| 1. | Bharat Krishnappa Poojari | | |
| 2. | Ranjit Krishnappa Poojari | ... | Petitioners |
| | Versus | | |
| 1. | State of Maharashtra | | |
| 2. | Mamta Bharat Mokal | ... | Respondents |

WITH

WRIT PETITION NO. 2957 OF 2023

- | | | | |
|----|---|-----|-------------|
| 1. | Bharat Rambhau Mokal | | |
| 2. | Mamta Bharat Mokal | | |
| 3. | Rajesh Ganesh Makwana alias
Raju Makwana | | |
| 4. | Ravi Makwana alias
Deepak Ganesh Makwana | | |
| 5. | Vijay Yashwant Mokal | | |
| 6. | Roshan Vijay Mokal | | |
| 7. | Dhruv Bharat Mokal | | |
| 8. | Usha Ganesh Makwana | ... | Petitioners |
| | Versus | | |
| 1. | State of Maharashtra | | |
| 2. | Bharat Krishna Poojari | ... | Respondents |

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Mr. Kalpesh Patil for the Petitioner in WP/2958/2023 and for the Respondent No. 2 in WP/2957/2023.

Mr. Vivek Rane for the Petitioner in WP/2957/2023 and for the Respondent No. 2 in WP/2958/2023.

Mr. S. V. Gavand, APP for the State.

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

DATED : 11 OCTOBER 2023

P.C. :-

Both these petitions are filed to quash cross- First Information Reports.

2. The Writ Petition No. 2958 of 2023 is filed to quash the FIR No.142 of 2023 for the offences punishable under Sections 354, 323 and 504 r/w 34 of the Indian Penal Code, whereas the Writ Petition No. 2957 of 2023 is filed to quash the FIR N0.141 of 2023 for the offences punishable under Sections 324, 323, 143, 147, 149, 504 & 506 of the Indian Penal Code.

3. Both the parties who are running their businesses in the same locality, have alleged assault by other party on account of previous dispute.

4. The quashing of FIRs is sought on the ground that there has been an amicable settlement between them.

5. The learned counsel for the respective parties submit that the parties have amicably settled the dispute. It is submitted that the dispute between the parties is purely of private in nature and in view of the settlement arrived at between the parties no purpose would be served by keeping the prosecution alive. It is submitted that the present case is squarely covered by the law laid down by the Hon'ble

Supreme Court in the case of *Narinder Singh and ors. Vs. State of Punjab and anr*¹.

6. The respondent No.2 in Writ Petition No. 2958 of 2023, who is the complainant in FIR No. 142 of 2023 has filed the consent affidavit that he has no objection if the FIR in question is quashed in view of the settlement between the parties. Similar consent affidavit is filed by the respondent No.2 in Writ Petition No.2957 of 2023, who is the complainant in FIR No. 141 of 2023. They are personally present and have admitted the contents of the affidavits.

7. The Hon'ble Supreme Court in *Narinder Singh (supra)* has held :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this

1 (2014) 6 SCC 466

power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

8. Admittedly, both the parties are running their businesses in the same locality. In view of the settlement between the parties, they are not going to support the prosecution case and therefore, possibility of

conviction is remote and bleak. Apart from it, if the FIRs in question are not quashed disharmony between the parties would not come to an end. Considering the overall facts and circumstances, in our view, both the Petitions deserve to be allowed. Both Petitions are thus allowed in terms of prayer clause (b) and (b1), subject to payment of cost of Rs.5,000/- (Rupees Five Thousand) by each petitioner, in both petitions, to the Police Welfare Fund viz. "*Mumbai Police Welfare Fund Account No.465010100008693; IFSC code: UTIB0000465; Bank : Axix Bank ; Branch: Lamington Road*" within six weeks from today and the receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the FIRs in both petition shall stand recalled.

9. Writ Petitions are disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)