

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

CRIMINAL WRIT PETITION NO. 2385 OF 2023

Mr Pramod Krushna More

... Petitioner

Versus

1. State of Maharashtra

(Through PI Yerwada Police Station)

2. Mr Dhananjay Mukund Barathe

Age 39 years, Occ: Driver,

r/at House No.317,

Near Pragati Baudhvihar,

New Khadaki, Pune

... Respondents

Mr Hrishikesh Giri i/b Ahmad Mulani for Petitioner.

Mr J.P. Yagnik, APP for the State.

Mr Ashish Agarkar for Respondent No.2.

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

DATE : 14 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 Petitioner has 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. 2045/2020 dated 25 August 2020, registered with Yerwada Police Station, Pune, for the offences punishable under Section 505(2) of IPC and Section 2 of Prevention of Insult to National Honour Act, 1971, and the proceedings arising from it. Quashing is sought on the premise that the parties have resolved their dispute amicably.

4. It is alleged in the FIR that the petitioner expressed support for the controversial material posted on Facebook.

5. When this Writ Petition was placed before us to quash the aforesaid FIR, the Petitioner submitted an affidavit-cum-undertaking, offering an unconditional apology. The petitioner claims that he had no intention of offending the Complainant or anyone else in Society and that the comment was removed within a few hours on the same day. The Complainant, who is also Respondent No.2 submitted an affidavit agreeing to quash the subject FIR stating that he realized that the comment made by the Petitioner was a mistake and was promptly deleted. The learned counsel for

the Petitioner and Respondent No.2, jointly stated 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

6. Learned APP for the Respondent No.1 submits that appropriate orders may be passed.

7. Respondent No.2 is present before the Court and states that he has no objection to quash the impugned FIR against the Petitioner. He states that he is satisfied that there was no intention to cause insult or hurt to anyone's feelings. When questioned, he reiterates the statement made in his affidavit and is identified by his counsel.

8. As the Complainant/second Respondent is no longer willing to support the allegations, continuing the prosecution would be an empty formality. Additionally, there seems to be no *mens rea* on the part of the Petitioner. In such a situation, it would be appropriate to quash the impugned FIR. The consent affidavit filed by Respondent No.2 supports the

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

prayer to quash the FIR.

9. Considering the peculiar facts and circumstances, we see no difficulty in quashing the impugned FIR. As a result, the impugned FIR No. 2045/2020 for the offences punishable under Sections 505(2) of IPC and 2 of Prevention of Insult to National Honour Act, 1971 and the proceedings arising from it are quashed and set aside, subject to the condition that Petitioner pays a cost of Rs.5,000/- with Kirtikar Law Library within three weeks of this order being uploaded.

10. 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.

Lata.S.Panjwani, P.S.