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

CRIMINAL WRIT PETITION NO. 4136 OF 2022

1. Habbibullah Shaikh
2. Talha @ Mr. Noman Shaikh
3. Reem Hazrat Ali Shaikh
4. Taibun Nisha Habibullah Shaikh .. Petitioners

Vs.

1. The State of Maharashtra
2. Asiya Khatoon Imtiyaz Shaikh .. Respondents

.....

Ms. Janhvi Singh a/w Mr. Suhail Shroff i/b Falcon Legal for the petitioners

Ms. Smita Sonawane a/w Ms. Manpreet Kaur for the respondent no.2

Mr. Y.M. Nakhwa, APP for the respondent – State

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

DATED : 1st FEBRUARY, 2023.

ORDER : (Prithviraj K. Chavan)

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith. With the consent of the parties the petition is taken up for final disposal. Mr. Nakhwa, learned APP waives notice on behalf of respondent No.1 – State and Ms. Sonawane waives notice on behalf of the respondent no.2.

3. By this petition, preferred under Section 482 of the Code of Criminal Procedure, 1973, the petitioners seek quashing of the FIR bearing C.R. No. 296 of 2022 dated 08.05.2022 registered with the Meghwadi Police Station, Mumbai for the alleged offences punishable under Sections 326, 325, 452, 504, 506(II) r/w 34 of the Indian Penal Code.

4. Facts in brief are as under :-

5. Respondent no.2 – Asiya Khatoon Imtiyaz Shaikh is the petitioner no.1 in the cross case being FIR bearing C.R. No.431 of 2022. It is alleged that the petitioners and the respondent no.2 are neighbours. It is the case of the prosecution that on 08.05.2022 at about 12.00 p.m. there was a quarrel on account of muddy water and garbage being thrown for the past 15 days before the day of incident by the petitioners in front of the respondent no.2's

house. On the day of incident, when the respondent no.2 was sweeping and was standing near the door of her house, the petitioners again threw garbage in front of the respondent no.2's house. When the respondent no.2 questioned the petitioners as regards their conduct, it is alleged that the petitioner no.3 started abusing the respondent no.2. Thereafter, petitioner no.2 took an iron rod and thrashed the respondent no.2 and her son Mohammed, as a result, they sustained injuries. Similarly, petitioner nos. 3 and 4 trespassed into the house of the respondent no.2, abused and thrashed her another son namely Mehboob. The petitioner no.3 assaulted Sameena. They threatened the respondent no.2 and her family members of dire consequences.

6. The respondent no.2 and her family members were taken to the Trauma Care Hospital for treatment. As such, an FIR came to be lodged against the petitioners for the alleged offences as above.

7. The investigation is in progress. Meanwhile, the parties have decided to amicably settle their dispute being residents of the same locality and next door neighbours. There are three injured in the melee. All the three injured i.e. (i) Mehmood Alam Imtiyaz

Shaikh, (ii) Mehboob Alam Shaikh and (iii) Mrs. Sameena Begum Mehmood Shaikh have sworn affidavits, which are identical in nature. The affidavits of the respondent no.2 as well as rest of the respondents reveal that they have settled the differences and dispute amicably amongst themselves and, therefore, seek to withdraw all the allegations.

8. Admittedly, there is a cross complaint by the petitioners against the respondent no.2 and her family members being FIR vide C.R. No. 431 of 2022 dated 13.07.2022 (Criminal Writ Petition No. 4135 of 2022) registered with the Meghwadi Police Station for the offences punishable under Sections 323, 324, 506 r/w 34 of the IPC.

9. The respondent no.2 herein submits that the differences and the ill-feelings against each other have been buried and now they want to resolve the dispute peacefully. The injury certificates, dated 08.05.2022 of the rest of the three injured, including respondent no.2, reveal that the injuries sustained by them were simple in nature. It appears to be a dispute occurred in a spur of moment, due to throwing of muddy water and garbage in front of the

respondent no.2's house. It would be futile to proceed further in the matter in view of the amicable settlement between the parties. The respondent no.2 has, therefore, no objection to quash the FIR.

10. The learned Counsel for the respondent no.2 has tendered photocopies of the Aadhar Cards of the respondent no.2 as well as the victims, duly attested by them. The same are taken on record. Learned Counsel appearing for the respondent No.2 has identified her and the learned A.P.P has verified the original Aadhar Card of the respondent no.2.

11. Having regard to what is stated aforesaid, the amicable settlement between the parties, consent affidavits and the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr.**², there is no impediment in allowing the petition.

12. Accordingly, the petition is allowed and C.R. No. 296 of 2022 registered with the Meghwadi Nagar Police Station, Mumbai is quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]