



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3013 OF 2023

Sheru @ Abdul Gaffar Razzaq Pathan and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Anr. ... Respondents.

Mr. Sachin B. Thorat, for the Petitioners.

Ms. M.H. Mhatre, APP for the Respondent-State.

Mr. Shailesh Chavan, for Respondent No.2.

AND

WRIT PETITION NO. 3016 OF 2023

Shaijad Javed Pathan and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Anr. ... Respondents.

Mr. Shailesh Chavan, for the Petitioners.

Ms. S.D. Shinde, APP for the Respondent-State.

Mr. Sachin B. Thorat, for Respondent No.2.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

DATE : 10th October, 2023.

ORDER : (Per Sharmila U. Deshmukh, J.)

1. Heard learned Advocates for the respective parties.
2. The Petitioners in the above two petitions are accused in cross FIR's lodged by the Respondent No.2 therein and seek quashing of their respective FIRs with the consent of said Respondent No 2.
3. Writ Petition No.3013 of 2013 seeks quashing of CR No.242 of 2023 lodged for the offences punishable under Sections 307, 326, 324,

323, 143, 145, 147, 148, 149, 504 and 506 of the Indian Penal Code, 1860 with Junner Police Station, Pune Rural, against the Petitioners, who are 14 in numbers. There are three victims in the said crime.

Writ Petition No.3016 of 2013 has been filed seeking quashing of CR.No.241 of 2023 lodged for the offences under Sections 143, 145, 147, 148,149, 307, 327, 323, 504 and 506 of the IPC with Junner Police Station, Pune Rural, against the Petitioners, who are 16 in numbers. There are two victims in CR No.241 of 2023.

This Court is informed that, the charge-sheets in both the crimes have not been filed.

4. Learned Advocates for the Petitioners and the Respondent No.2 submitted that, the matter was amicably settled between the parties during the hearing of the Anticipatory Bail Application which is recorded in the Order dated 24th August, 2023 passed in the Anticipatory Bail Application No.2397 of 2023 and 2402 of 2023. He would submit that, although both sides suffered injuries, there are no grievous injuries.

5. Learned Advocate for Respondent No.2 in Writ Petition No.3013 of 2023 admits that, the parties have amicably resolved their dispute and that the same has been recorded during the hearing of the Anticipatory Bail Application. He has tendered the affidavit of three injured victims, viz. Juned Pathan, Ashpak Usman Pathan and Shahajad

Usman Pathan dated 8th September, 2023, duly affirmed before the Assistant Registrar of this Court. The Consent Affidavits states that, the deponents of the Affidavits consent to the quashing of the FIR.

6. In Writ Petition No.3016 of 2023, the Affidavits of the two injured victims viz. Abdul Gafar Abdul Rajak Pathan and Sameer Pathan have been tendered by the learned Advocate for the Respondent No.2. The Consent Affidavits dated 8th September, 2023 duly affirmed before the Assistant Registrar of this Court states that, the deponents have given their consent for quashing of the FIR.

7. The parties seek quashing of FIR on the basis of compromise between the two groups. The offences alleged indicate that, Section 307 of IPC is also applied. We have perused the record and examined the injury certificates of the victims. It appears that, a fight had broken out between the members of two groups in which the members of each group assaulted the members of the other group. The injury certificate of the victims in CR No.242 of 2023, shows contusion, abrasion and blunt injury to the hands and fingers. The injury certificate of victims in CR No.241 of 2023 shows contused lacerated wounds on the forehead and arm. The injuries are stated to be caused by blunt weapon. Upon perusal of the injury certificates, we have our own doubt about application of Section 307 of IPC in both the crimes.

8. The parties belong to the same village and have amicably resolved their dispute. In view of the compromise entered into between the parties, there are bleak chances of the first informant proceeding with the prosecution. By the compromise the enmity has been given a quietus by the two groups. Considering the decision of the Apex Court in the case of *Narinder Singh and Others Vs. State of Punjab and Another*, reported in (2014) 6 SCC 466, we see no impediment in quashing both the crimes by consent. As such, we are inclined to allow both the petitions, in terms of prayer clause (a).

9. In view thereof, we are inclined to quash the CR No.241 of 2023 and CR No.242 of 2023, both registered with Junner Police Station, Pune Rural, against the respective Petitioners.

10. As we expressed our opinion for quashing of the said CRs, i.e., CR No.241 of 2023 and CR No.242 of 2023, both registered with Junner Police Station, Pune Rural, learned Advocate for the Petitioners, on instructions submitted that, Petitioners will pay a cost of Rs.5,000/-, per person, totaling to Rs.1,50,000/- to the Kirtikar Law Library, High Court, Mumbai, within a period of two weeks from the date of uploading of the Order on the official website of Bombay High Court. The said statement is accepted as an undertaking given to this Court.

11. We direct the Petitioners to pay a cost of Rs.5,000/-, per person, totaling to Rs.1,50,000/- to Kirtikar Law Library, High Court,

Mumbai within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

Petitioners to deposit the said cost of Rs.5,000/-, per person, totaling to Rs.1,50,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

12. In view of above and subject to payment of cost, both the Petitions are allowed in terms of prayer clause (a).

13. It is made clear that, if the cost is not paid within the stipulated period as mentioned above, the Petitions shall stand revived automatically and in that event, the trial Court will proceed with the said case expeditiously.

14. List the petitions on board on 7th November, 2023, under the caption 'for reporting compliance' of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)