

VAISHALI
ANIL
TIKAM

Digitally signed
by VAISHALI
ANIL TIKAM
Date: 2023.10.31
18:55:15 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3392 OF 2023

Mr. Ali Hussain Idris Jogi

.. Petitioner

vs.

The State of Maharashtra and Ors.

.. Respondents

Ms. Saina Ansari i/by Salman Palasara for Petitioner

Mr. A.D. Khamkhedkar, APP for Respondent No.1-State

Mr.Farkhruddin Khan for Respondent Nos.2 and 3

**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 26th OCTOBER, 2023.

ORDER: PER [SHYAM C. CHANDAK, J.]

1) The Petitioner is accused in Crime No. 418 of 2016 registered at Respondent No.1-Ghatkopar Police Station, Mumbai for the offences punishable under Sections 324, 323, 504 r/w 34 of Indian Penal Code. The said FIR was lodged by Respondent No.2. As alleged in the FIR, on the relevant date, at time and place, the Petitioner and his two associates/co-accused abused and assaulted by hand to Respondent No.3. Therefore, Respondent No.2 intervened to separate the quarrel. However, the Petitioner abused to Respondent No.2. Meanwhile, one of the associates of the Petitioner, assaulted to Respondent No.2 by means of some weapon and

caused him injuries on left hand little finger and stomach. Another associate of the Petitioner assaulted Respondent No.2 by hand. Thereafter the FIR was registered as C.R. No. 418 of 2016 and the Petitioner came to be arrested. But details of the associates of the Petitioner could not be found and possibility of getting those associates was less. After completing the investigation, Respondent No.1 submitted the charge-sheet against the Petitioner for having committed the offences punishable under Sections 324, 323, 504 r/w. 34 of IPC, which has been registered as C.C. No. 239/PW/2017 and now pending before the Learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai.

2) Thereafter the parties have agreed to settle the matter amicably and accordingly, they decided to get the said prosecution i.e. the FIR bearing Cr. No.418/2016 and the charge-sheet quashed. It is stated that the settlement is by mutual consent and it is without pressure from either side. Hence, this Petition.

3) Learned Advocate for the Petitioner submitted that, the Petitioner and Respondent Nos.2 and 3 have amicably settled their disputes and differences. That, Respondent Nos.2 and 3 have given their consent for quashing of the present crime. He, therefore, prayed that the present crime

may be quashed by consent of Respondent Nos.2 and 3.

4) To substantiate the above, Respondent Nos.2 and 3 have produced their independent Affidavits. The Affidavit of Respondent No.2 clearly mentions that he is the first informant in the Crime No. 418 of 2016. The case registered on account of the said FIR is pending before the Learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai. He has stated that, at present the matter has been settled amicably on humanitarian ground between him and the Petitioner and he does not want to proceed with the present matter against the Petitioner. In his Affidavit, Respondent No.3 states that Respondent No.2 is his brother. His statement was recorded by the police. He further stated that at present the matter has been settled amicably on humanitarian ground, between him and the Petitioner and he does not want to proceed with the present matter against the Petitioner. Hence, both respondent Nos.2 and 3 pleaded that the FIR along with the charge-sheet may be quashed.

5) In view of the above discussions, we are inclined to quash the C.R. No. 418 of 2016, dated 24th August, 2016, registered with Ghatkopar Police Station, Mumbai under Sections 324, 323, 504 r/w. 34 of Indian Penal Code against the Petitioner.

6) As we expressed our opinion for quashing of said C.R. No. 418 of 2016 registered with Ghatkopar Police Station, Mumbai, learned Advocate for the Petitioner, on instructions, submitted that, the Petitioner will pay a cost of Rs.5,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai within a period of two weeks from today. The said statement is accepted as an undertaking to this Court.

7) We direct the Petitioner to pay a cost of Rs.5,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

8) The details of the bank Account for payment of cost are as under:-

Bank Name	:-	Bank of India
Branch Name	:-	Mumbai Main
Account Name	:-	Advocates' Association of Western India Generation Next.
Account Number	:-	000110110007807
IFSC Code	:-	BKID0000001

9) The Petitioner to deposit the said cost of Rs.5,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

10) In view of above and subject to payment of cost, Petition is allowed in terms of prayer clause (i).

11) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the trial Court will proceed with the said C.R. No.418 of 2016 expeditiously.

12) List the Petition on 30th November, 2023 under the caption '*for reporting compliance*' of Order.

13) All the concerned to act on the basis of an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)