

*Uday S. Jagtap*

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

**CRIMINAL WRIT PETITION NO. 4282 OF 2022**

Sunil Babani

.. Petitioner

Vs.

1. The State of Maharashtra

2. Bimaljit Singh Grewal

.. Respondents

.....

Mr. Adwait Shukla for the petitioner

Mrs. P.P. Shinde, APP for the respondent no.1 – State

Mr. Ashok Mishra a/w Mr. Shubham Mishra for the respondent  
no.2

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**CORAM : REVATI MOHITE DERE &  
ARIF S. DOCTOR, JJ.**

**DATED : 5<sup>th</sup> JANUARY, 2023.**

**P.C.**

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent no.1 – State and learned Counsel Mr. Mishra waives notice on behalf of the

respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, the petitioner seeks quashing and setting aside of the FIR registered vide C.R. No. 620 of 2021 with the Oshiwara Police Station, Mumbai for the alleged offences punishable under Sections 336 and 323 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The dispute essentially is an outcome of a transaction with respect to the Sale of a Flat, which took place between the petitioner's brother and the respondent no.2. According to the respondent no.2 (original complainant), the incident took place on 07.08.2021 at about 9.00 a.m. when he was returning from his morning walk. He has alleged that the petitioner came and asked him to reduce the consideration of the said flat, which was to be purchased by the petitioner's brother. The respondent no.2 has stated that when he refused to reduce the consideration, the petitioner slapped him and thereafter, pushed him. It is stated that, as a result of the said push, he fell on

the compound wall of the building and sustained some minor injuries. Pursuant thereto, the respondent no.2 lodged the aforesaid complaint as against the petitioner alleging the aforesaid offences. Admittedly, charge-sheet has not been filed till date.

5. During the pendency of the investigation of the aforesaid C.R., the parties amicably settled their dispute. The consent terms entered into between the petitioner and the respondent no.2 are at page 23 of the petition (Exh.'C' colly.). One of the term and condition of the consent terms is that both the parties will withdraw the FIRs registered by them against each other, including the present FIR.

6. We are informed that the dispute with respect to the flat has also been resolved by the parties. Learned Counsel for the respondent no.2 states that the respondent no.2 has filed his consent affidavit dated 20.12.2022, duly notarized before the notary. In the said affidavit, the respondent no.2 has stated that the dispute is amicably settled between the parties and as such, he has no objection for quashing of the FIR, registered at his behest.

7. The respondent no.2 is present in person. On being

questioned, he reiterates the contents of his affidavit. Learned Counsel for the respondent no.2 has tendered a photocopy of the Aadhar Card of the respondent no.2, duly attested by him. The same is taken on record. Learned Counsel appearing for the respondent No.2 has identified the respondent no.2 and the learned A.P.P has verified the original Aadhar Card of the respondent no.2.

8. Having regard to what is stated aforesaid, the amicable settlement between the parties, the nature of injury sustained by the respondent no.2, respondent no.2's affidavit and the judgments of the Apex Court in the case of **Gian Singh Vs. State of Punjab & Anr.**<sup>1</sup> and **Narinder Singh & Ors. Vs. State of Punjab & Anr.**<sup>2</sup>, there is no impediment in allowing the petition.

9. Accordingly, the petition is allowed and C.R. No.620 of 2021 registered with the Oshiwara Police Station, Mumbai is quashed and set aside.

10. The petitioner to deposit of Rs. 25,000/- with the **Jeevan Sandhya Mangalya Sansthan**, bearing Account No. 60134381699, IFCS No. MAHB0000189, as costs. The said costs to be deposited

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1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

within four weeks from today.

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

12. Stand over to **7<sup>th</sup> February, 2023**, for recording compliance of the said deposit of costs.

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

[ARIF S. DOCTOR, J.]

[REVATI MOHITE DERE, J.]