

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.5174 OF 2019**

Nilesh Gangadhar Sathbhai] Petitioner

Vs.

1. The State of Maharashtra]

2. Riddhi Madhukumar Rathi] Respondents

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Mr. Yashwardhan Tiwari i/b Ms. Sneha Singh, for Petitioner.

Ms. S.S. Kaushik, for Respondent No.1-State.

Mr. Prashant Pandey a/w Irfan Unwala, Pradeep Singh i/b W3 Legal Llp, for Respondent No.2.

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

DATE : 31st JANUARY, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]:

1. Heard.

2. Rule.

3. Rule is made returnable forthwith, with the consent of the parties. Petition is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1-State. Mr. Pandey, learned Counsel waives notice on behalf of respondent No.2.

5. By this petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the petitioner seeks quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.257 of 2019 with Sahar Police Station, Mumbai for the alleged offences punishable under section 354 of the Indian Penal Code (for short "I.P.C") and consequently, proceeding pending in the Court of learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai being Case No.116/PW/2020. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. In a nutshell, facts are as follows.

7. Respondent No.2 and the petitioner are Doctors by profession. On 30th June, 2019, respondent No.2 had visited Hotel Pakka Bar, Town Centre, Andheri Kurla Road, Andheri (West), Mumbai for a family get together. Gathering lasted till midnight.

During that period, they ordered some drinks and food. All the family members were dancing. At the same time, another group was dancing next to the family of respondent No.2. The petitioner was trying to dance in respondent No.2's group, however, respondent No.2's brother took respondent No.2 away from the petitioner.

8. Around 12.40 a.m, the petitioner again entered into respondent No.2's group and inappropriately touched respondent No.2. Respondent No.2 warned him. When respondent No.2 warned him, the petitioner came back and again inquired what was the issue. Respondent No.2 had asked the Manager of the Bar to turn off the music. The incident was reported by respondent No.2 to her husband and other family members. Thereafter, they dialed Helpline No.100, upon which, the Police arrived at the scene. An F.I.R came to be registered against the petitioner, as above.

9. After investigation, charge-sheet came to be filed in the Court of Metropolitan Magistrate, 22nd Court, Andheri, Mumbai being Case No.116/PW/2020.

10. The parties have now amicably settled their dispute. Learned Counsel for respondent No.2 has tendered affidavit of respondent No.2 dated 23rd August, 2022, duly affirmed before the Assistant Registrar, High Court, Appellate Side, Bombay. The said affidavit is taken on record. In her affidavit, respondent No.2 states that she seeks to withdraw her complaint against the petitioner provided he promises to behave well with her and does not repeat such act in future. She further states that she does not wish to prosecute the criminal proceedings against the petitioner.

11. Respondent No.2 is present in the Court. On being questioned, respondent No.2 reiterates what is stated by her in her affidavit. Learned Counsel appearing for respondent No.2 has tendered photostat copy of the Aadhar Card of respondent No.2. The same is taken on record. Learned Counsel for respondent No.2 has identified her. Learned A.P.P has verified the original Aadhar Card of respondent No.2.

12. Considering the nature of the dispute, the amicable settlement between the parties, affidavit of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of

Gian Singh Vs. State of Punjab and another ¹ and Narinder Singh and others Vs. State of Punjab and another², there is no impediment in allowing the petition.

13. The petition is accordingly allowed. The F.I.R bearing C.R. No.257 of 2019 registered with Sahar Police Station, Mumbai, as against the petitioner and consequently, the proceeding pending in the Court of learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai being Case No.116/PW/2020, are quashed and set aside.

14. The petitioner to deposit a sum of Rs.25,000/- with the **Mumbai Police Welfare Fund bearing Account No.465010100008693, IFSC No.UTIB0000465**, as costs. The said costs to be deposited within three weeks from the date of uploading of this order.

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

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

16. Petition be listed on **6th March, 2023**, for recording compliance, regarding deposit of costs.

17. All parties to act upon an authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]