

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

CRIMINAL WRIT PETITION NO. 4987 OF 2018

1. Shri Ashish Karunakar Shetty
Age: 36, Occ: Business
R/o. Lodha Aria, Ramtekdi Marg,
Sewree (W), Mumbai 15.
2. Rohit Karunakar Shetty
Age: 37, Occ: Business
R/o. 101/102, Lodha Aria, Ramtekdi Marg,
Sewree (W), Mumbai 15.
3. Shri Sanjeev Manoharlal Khanna
Age: 51, Occ: Business
R/o. 13/402, Datta Parag CHSL,
Azad Nagar, J. P. Road,
Andheri (W).
4. Rupesh Hemant Gugale,
Age: 35, Occ: Business
R/o. 384, Shaviwar Peth, Pune – 411 030.
5. Abhinay Chandrakant Sawant
Age: 37, Occ: Business
R/o. Worli Building Chawl No.44,
Room No. 51, Dr. G. M. Bhosale Marg,
Mumbai – 81.
6. Anita Ahlawat
Age: 32, Occ: Business

Room No.5, Shivaji Park, Mumbai – 16.

7. Kasif Aslam Shaikh,
8/13, Fatakdi Chawl, Dr. Annie Besant Rd.,
Opp. Mico Worli, Mumbai – 400 018.
8. Irfan Akhtar Shaikh,
Behind Post Office, Zopda No.8, 13/16,
Hans Rd., Byculla (W), Mumbai – 11. ... Petitioners

Versus

1. State of Maharashtra
(Through Mahim Police Station, Mumbai)
2. Mrs. Krupali Rakesh Prasade
3. Mr. Rakesh V. Prasade,
Both R/o. Flat No.706, Asra Hanuman
Co-op. Hsg. Soc., S. J. Marg, Opp. Sunmill
Compound, Lower Parel (W),
Mumbai – 400 013. ... Respondents

Mr. Sanjeev P. Kadam for Petitioners.

Mrs. S. D. Shinde, APP for the Respondent No.1-State.

Mr. Prashant P. Patil for the Respondent No.2.

A.P.I. Chaudhari, Mahim Police Station, I.O.-present.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 19th JUNE 2023

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The Petitioners have filed this Criminal Writ Petition under Articles 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR No. 403 of 2018, registered with Mahim Police Station, Mumbai by Respondent No.2 for the offences punishable under Sections 324, 342, 364A, 394, 452 read with Section 34 of the Indian Penal Code. They claim that the parties have settled their dispute amicably.

4. When we heard this Criminal Writ Petition for quashing the impugned FIR, the learned counsel for the Petitioners and Respondent No.2/Original Complainant stated that the parties have amicably settled their dispute. Further, they stated that keeping the prosecution alive would serve no purpose, given the settlement between the parties. They stated that the consent terms executed between the parties have also been submitted on record. Respondent No.2 who is present before

the Court, stated that the impugned FIR was lodged due to misunderstanding. They stated that the present case falls within the ambit of the law laid down by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

5. Learned APP appearing for Respondent No.1 submits that suitable orders may be passed. Further, he, on instructions, submitted that apart from Respondent No.2, no other person came forward to make any allegations against the Petitioners.

6. It reveals from the record that Respondent No.2 has submitted consent terms dated 2 November 2018, and also the consent affidavit dated 31 October 2018. Respondent No.2 is present before the Court and stated that she has no objection if the impugned FIR against the Petitioners is quashed, given the settlement between them. On questioning, she confirms what is stated by her in her affidavit. Respondent No.2 has been identified by her counsel. Learned APP has verified the original Aadhar Card of Respondent No.2 and tendered its photocopy duly signed by Respondent No.2.

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

7. We have scrutinised the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in the case of *Gian Singh and Narinder Singh (supra)*. Based on the material on record, it is evident that *prima-facie* the offence under Section 364A is not made out. In light of the mutual settlement, allowing criminal prosecution to continue would be a misuse of the process of the Court. No fruitful purpose would be achieved due to a settlement between the parties. In order to secure ends of justice, it would be appropriate in the given case that the impugned FIR is put to an end. The consent terms and the affidavit filed on behalf of Respondent No.2 support the prayer of quashing the impugned FIR. Having said so, and on the facts noted above, the impugned FIR bearing C.R. No. 403 of 2018 registered with Mahim Police Station, Mumbai, against the Petitioners needs to be quashed and set aside.

8. Accordingly, the Criminal Writ Petition No. 4987 of 2018, therefore, made absolute in terms of prayer clause (b), which reads thus:

“(b) That by an appropriate writ, order be issued by this Hon'ble Court, the FIR and complaint vide C.R. No. 403/2018 registered with Mahim Police Station may be quashed.”

9. Rule is made absolute in the above terms and this
Petition is disposed of.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2023.06.27
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