

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 60 OF 2024**

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|----|----------------------------|--|----------------|
| 1. | Seemanchal R. Mishra | | |
| 2. | Bharat B. Mishra @ Krushna | | |
| 3. | Rohit Rakesh Mishra | | ...Petitioners |
| | Versus | | |
| 1. | The State of Maharashtra | | |
| 2. | Sanjaykumar V. Dixit | | ...Respondents |

Mr. Akhilesh Singh for the Petitioners.
Mr. Ajay Patil, APP for the Respondent/State.
Ms Ruchi Singh for Respondent No.2.

**CORAM : SMT ANUJA PRABHUDESSAI &
N. R. BORKAR, JJ.
DATED : 5 JANUARY 2024.**

PC:-

1. The petitioners herein seek to quash FIR No. I-118 of 2022 registered at Mira Road Police Station, Thane for the offences under Sections 364-A, 385, 323, 324, 420 and 506 read with 34 of the Indian Penal Code and Sessions Case No. 718 of 2022 arising from the said crime.

2. The aforesaid crime was registered pursuant to the first information report lodged by respondent No.2. The facts narrated in the FIR reveal that on 16 March 2022 at about 5:30 p.m., petitioner No.1 – Seemanchal Mishra called respondent No.2 near Tea Stall at R.B.K School, Bevarli Park, Mira Road under the pretext of discussing about rejection of insurance claim. On the same day, at about 5.45 p.m., respondent No.2 went to the tea stall to meet the petitioner No.1. At that time,

petitioner No.1 – Seemanchal Mishra, petitioner No.3 – Dr.Rohit Mishra and co-accused Rajesh Mishra were present at Tea stall. They made him to sit in a car and took him around Mira Road area and thereafter assaulted him with blows for rejecting the insurance claim lodged by petitioner No.1. Respondent No.2 further stated that when the car stopped near Seven Eleven Club, Mira Road, petitioner No.2 – Bharat Mishra @ Krushna got into the car and he too assaulted him with stick for the same reason.

3. Respondent No.2 has filed his affidavit wherein, he has stated that he has settled the dispute amicably and that he has no objection to quash the first information report as well as the sessions case.

4. Respondent No.2 is present before the Court. He has been identified by his Advocate. Respondent No.2 has identified his signature on the affidavit and has confirmed the contents of affidavit. He states that he does not wish to proceed against the petitioners as well as the co-accused Rajesh Mishra.

5. In our considered view, the settlement is genuine and voluntary. We would also to note here that though the petitioners are charged for the offences under Sections 364-A and 385 of the IPC, the facts narrated in the first information report as well as other material on record do not *prima facie* disclose that respondent No.2 was abducted for ransom and/or that the petitioners had committed offence of extortion. The

FIR does not disclose the essential ingredients of offence under Sections 364-A and 385 of the IPC. As far as the other offences are concerned, the dispute is personal in nature which has been resolved amicably. In such circumstances, it would be contrary to the interest of justice to continue with the criminal proceedings despite settlement between the parties.

6. Considering the above facts and circumstances, in our considered view, this is a fit case to exercise the powers under Article 226 of the Constitution of India and to quash the FIR and criminal proceedings against the petitioners.

7. Considering the fact that the crime against the main accused has been quashed with consent, we are of the considered view that it would be a futile exercise to proceed against the co-accused Rajesh Mishra, who is not a party to the present petition. Hence, we are inclined to quash the FIR as well as the sessions case also against the co-accused. Hence, the following orders is passed:

a] Writ Petition is allowed.

b] FIR No. I-118 of 2022 registered at Mira Road Police Station and Sessions Case No. 718 of 2022 pending on the file of Additional Sessions Judge, Thane against the petitioners and co-accused Rajesh A. Mishra are hereby quashed, subject to payment of costs of Rs.40,000/- (Rupees Forty Thousand only) to be paid to the Central

Police Welfare Fund, within a period of one week from the date of uploading of this order.

c] Matter be listed under the caption "*for compliance*" on 12 January 2024.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)