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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3342 OF 2026

Vinay Kailash Gupta .. Petitioner

Versus

State of Maharashtra and Anr. .. Respondents

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- Mr. Chanchal Singh a/w. Mr. Ranveersingh Solanki, Advocates for Petitioner.
- Ms. Sangeeta E. Phad, APP for Respondent – State.
- Mr. Prabhu, Khar Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 01, 2026.

P.C.:

1. Heard Mr. Singh, learned Advocate for Petitioner and Ms. Phad, learned APP for Respondent – State.

2. The incident in question happened at the spur of the moment when the two groups were sitting next to each other in a restaurant having dinner. Respondent No.2 – Complainant brushed the chair of Accused No.3 which led to a verbal altercation and it ended up in abuses and a physical fight.

3. The complaint itself shows that Accused Nos.1 and 3 were violent and exchanged a lot of abuses and threats. In the process, Accused No.2 has been alleged to have hit the Complainant on his back with his hand.

4. Today, when the matter is placed before me, I have interacted with the Complainant on a video call with the able assistance of the learned Advocate before me. Complainant himself appears to be a well educated person and is a businessman. He is a young person. He has explained to me that insofar as the present Petitioner is concerned, he has had a reconciliation with him and in view of the request made by Petitioner and his demeanor, he has on his own volition agreed to forget the incident *qua* him and seek partial quashing of the FIR.

5. However, when I pointedly asked him about the other two accused persons, he would submit that because of the aggression shown by them and the stance taken by them, he is not ready and willing to agree for consent quashing of the present FIR *qua* the other two accused persons, namely Accused Nos.1 and 3.

6. Case of the Petitioner before me is clearly covered by the decision of Supreme Court in the case of ***Lovely Salhotra and Anr. Vs. State of NCT Delhi and Anr.***[1] and of this Court in the case of ***Alpesh Arvindbhai Patel and Others Vs. The State of Maharashtra and Other***[2]. Hence, there can be no impediment in allowing the present Writ Petition for quashing the complaint *qua* the Petitioner before me, who is 1 out of the 3 accused persons in the present crime.

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1 Criminal Appeal No.670 of 2017 – Decided on 10.04.2017.

2 Criminal Writ Petition No.3721 of 2018 Decided on 17.03.2023

7. Section 482 of the Criminal Procedure Code, 1973 conferred inherent powers on High Courts to pass such orders as are justified to give effect to any order in the Court, prevent abuse of process of any Court or secure the ends of justice. In the BNSS this provision stands incorporated with Section 528 which substantially reproduces the language and intent of Section 482 of the CRPC, 1973 High Courts invoke this provision to step in where cases have been instituted with malafide motives or to harass the accused person thereby avoiding procedural harassment. It empowers Court to dismiss FIRs or criminal proceedings if there is no *prima facie* case or evidence against the accused person/s or if orders are made in violation of the principles of natural justice. The exercise of such powers under Section 482 of CRPC and now Section 528 of BNSS remains discretionary and varies from case to case.

8. In ***State of Harayana vs Bhajan Lal*** [3] the Supreme Court laid down model categories and guidelines in paragraph No. 102 of the said judgment in which the FIRs can be quashed. The Supreme Court has furthered asserted that power under Section 482 is an acknowledgment of "powers inherent" and not the source of powers additional. It has held that even non compoundable offences can be quashed where necessary. It has held that High Courts have to decide whether the prosecution of an offence would further or be against the

3 1992 AIR 604

interest of justice. It is also held that grievous offences such as murder, rape, and dacoity cannot ordinarily be quashed even after settlement because they involve societal implication.

9. In view of the issue which is involved and the manner in which the incident had occurred and in view of the specific consent given by Respondent No.2 for partial consent of quashing *qua* the present Petitioner, I am inclined to accept the case of Petitioner for quashing of the present FIR partly.

10. In view of the aforesaid reasons and also the fact that Petitioner before me is the bread winner of his family and he also is an educated person. In view of the above, the Writ Petition stand allowed in terms of prayer clause (a) which reads thus:-

> *"**(a)** quash and set aside FIR No. 566 of 2024 dated 10.06.2024 registered with Khar Police Station, Mumbai, under Sections 324, 323, 504 and 34 of the Indian Penal Code, 1860, and the consequent Charge-sheet and all proceedings in T.C. No. 2698/PW/2024 pending before the Ld. Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai, in so far as the same relate to and are against the Petitioner (Accused No. 2), alone, on the basis of the settlement arrived at between the Petitioner and Respondent No. 2."*

11. In view of the above, Writ Petition is disposed.

12. However, there shall be no order as to costs.

[MILIND N. JADHAV, J.]

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