

**Citation analysis
Constitution section
Bombay High Court
Public policy and settlement of criminal case**

CRIMINAL WRIT PETITION NO. 4330 OF 2019

Rishi Prabha Ranjit kumar Prasad

...PETITIONER

Versus

1. The State of Maharashtra
[Through of E.O.W. Unit 7].
2. Krishna Mishra,
3. Mr. Samphul Das
4. Mrs. Sunitadevi Samphul Das

...RESPONDENTS

ALONG WITH
CRIMINAL WRIT PETITION NO. 1476 OF 2021

Mr. Ranjit Kumar Prasad

...PETITIONER

Versus

1. The Senior Inspector of Police
Chembur Police Station,

...RESPONDENTS

Facts of the Case

Facts summarized by the High Court are as follows:-

It is alleged by the first informant that he and his wife have been working as cleaners in Harikunj Society for the past ten years. The first informant while working at the said society had noticed over a period of approximately 1 month prior to filing of the impugned FIR, the presence of a young girl of approximately 10 years of age in the residence of the Petitioners. It is alleged that the alleged victim girl would drop the petitioners younger daughter to school, and thereafter wait for her to bring her back to home, during which she would meet the first informant and his wife and chat with them. The first informant often buying her a vadapav, if she felt hungry. During these conversations, the victim girl would tell the first informant and his wife that she is from Delhi, and was working in the Petitioner's home doing menial chores such as helping in cleaning the bed, wash dishes, and take care of petitioner's younger daughter.

On 6th September, 2019, the first informant while went for the cleaning in the society met the victim girl and fed her a vadapav as she was hungry. It is alleged that the victim girl told the first informant that she forgotten the house keys inside the house and house door was locked, leaving keys inside the house, for said mistake the petitioners had allegedly beat her. The first informant thus felt pity for the victim girl and filed a complaint with the Chembur Police Station.

Being aggrieved with the filing of FIR bearing C.R. No. 274 of 2018 with the Chembur Police Station, the Petitioner's husband Mr. Ranjitkumar Indeshwari Prasad had filed Criminal Writ Petition No. 4972 of

2018 (Ranjitkumar Indeshwari Prasad Vs. The State of Maharashtra). The said criminal writ petition was disposed of on merits by order dated 28 th February, 2019. Thereafter, charge sheet in Sessions Case No. 860 of 2019 has been filed in the impugned FIR and case is pending before the Sessions Court. Hence, this petition for quashing FIR and chargesheet on the grounds that the said complaint was filed on the basis of misunderstanding, and that the informant does not wish to prosecute the petitioners any further and that the victim girl was sent voluntarily to the Petitioners residence for her well being and welfare.

The first informant Mr. Krishna Mishra has filed affidavit wherein it is stated that the matter is amicably settled without any monitory consideration. It is stated that the first informant met parents of alleged victim girl and after discussing with them at length, he has realised that his complaint was based on a misunderstanding and he does not wish to prosecute the petitioners and he is withdrawing the complaint. He has no grievance against the petitioners and he is giving consent for quashing the impugned FIR. The offence alleged are under [Sections 370 and 34](#) of the Indian Penal Code as also [Sections 75, 79 and 23](#) of Juvenile Justice (Care and [Protection of Children](#)) Act, 2015.

Cases referred

The Hon'ble Supreme Court in the case of Gian Singh Versus State of Punjab and Another¹, in paragraph 61 observed that in compromise between victim and the offender in relation to the offences under special statutes like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, etc, cannot provide for any basis for quashing criminal proceedings involving such offences. In the present case the petitioners are being prosecuted under the provisions of the Juvenile Justice (Care and [Protection of Children](#)) Act, 2015, which is a [Special Act](#).

The Hon'ble Supreme Court in the case of State of M.P. Versus Laxmi Narayan², has observed that in the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to 1 (2012) 10 SCC 303 2 (2019) 5 SCC 688 Bhagyawant Punde 22/23 WP-4330-19 & 1476-2021.doc the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

Ratio laid

By referring to provisions of the POCSO Act and Art. 9, 36 and 37 of the Constitution the high Court observed,

Upon careful perusal of the aforesaid guidelines it is abundantly clear that the outcome of cases which have impact upon the society cannot be disposed of or allowed on the basis of amicable settlement. The Public Prosecutor has vehemently opposed the prayer of the petitioners to allow the petition on the basis of alleged compromise between petitioners, parents of victim and the complainant. In that view of the matter, we are not persuaded to quash the impugned FIR and charge sheet on the basis of alleged amicable settlement between the petitioners, parents of victim and complainant. Hence, writ petitions stand rejected.
