

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1462 OF 2015

Premchand Kashiram Chauhan & Anr. .. Petitioners

Versus

State of Maharashtra & Ors. .. Respondents

Mr. M. M. Nazmi i/b Kafil A. Khan, Advocate for the petitioners
Mr. S. R. Choudhari, Advocate for R. Nos. 2 & 3.
Mrs. U. V. Kejariwal, APP for the State.

**CORAM:-RANJIT MORE &
V. L. ACHLIYA, JJ.
DATED : -21/08/2015**

P.C.:

The learned counsel for the petitioners seeks leave to amend the petition. Leave as prayed for, is granted. Amendment to be carried out forthwith.

2 The petition is filed under Article 226 of the Constitution of India read with the provisions of 482 of the Criminal Procedure Code, 1973 to quash and set aside the proceedings of the Criminal Case bearing No.220/PS/2015, pending on the file of learned Metropolitan Magistrate, 5th Court, Dadar, Mumbai. The said case arises out of C. R. No. 411 of 2013 registered with Dadar Police Station for the offences punishable u/s 304(A) r/w 34 of the Indian Penal Code (IPC).

3 Petitioner No. 1 is a Labour Contractor and petitioner No. 2 is the Site Supervisor. The petitioners were posted for the work to be carried out in Sewage Treatment Plant at Zandu Pharmacy, Sayani Road, Dadar (West) Mumbai. The petitioners employed two workers namely Sampat Makalal Choudhary and Prithviraj Roshanlal Bhisen at the site for cleaning Sewage Treatment Plant and while cleaning Sewage Treatment Plant due to some poisonous gas both the said workers suffocated and died in the said accident. The accident took place at around 10.30 a.m. on 4/12/2013. Accordingly the above said FIR came to be registered against the petitioners u/s 304 (A) r/w Section 34 of IPC. After completion of investigation charge-sheet came to be filed which is numbered as Criminal Case No. 220/PS/2015.

4 Pending the trial the parties have settled their dispute amicably and have approached this Court for quashing the subject proceedings by consent. Respondent No. 2 is the widow of Prithviraj Roshanlal Bhisen and respondent No. 3 is the widow of Sampat Makalal Choudhary. Both respondents No. 2 and 3 have filed separate affidavit dated 17th August, 2015. No objection is given for quashing the subject criminal case. The petitioners in the writ petition have made a statement that respondents No. 2 and 3 have agreed to accept an amount of Rs.3,50,000/- each and out of this amount each of respondents No. 2 and 3 have been paid an amount of Rs.2,50,000/-. Respondents No. 2 and 3 are personally present and they do not dispute the statement made by the

petitioners in the petition.

5 Respondent No. 2 has two sons from the deceased Prithviraj Roshanlal Bhisen and respondent No. 3 has one daughter from the deceased Sampat Makalal Choudhary. At the time of death, the deceased were in their thirties. Respondent No. 2 is aged 26 years and respondent No. 3 is 30 years old. In these circumstances, we felt that the compensation amount of Rs.3,50,000/- to each of respondents No. 2 and 3 would be inadequate and accordingly, we suggested the learned counsel for the petitioners to increase the amount of the compensation. The learned counsel for the petitioners accordingly have taken instructions from the petitioners and they have shown willingness to increase the compensation amount at Rs.4,50,000/- to each of respondents No. 2 and 3. Accordingly the petitioners have paid to each of respondents No. 2 and 3 an amount of Rs.25,000/- in cash and an amount of Rs.1,75,000/- by way of demand drafts. Respondents No. 2 and 3 acknowledge the said amount.

6 It can thus be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of Narinder Singh and Ors. vs. State of Punjab & Anr., 2014 AIR (SCW) 2065, we are of the view that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already

overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

7 The petition is, accordingly, allowed in terms of prayer clause (c) subject to payment of costs of Rs.10,000/- by the petitioners. The petitioners shall deposit the costs with Tata Memorial Cancer Hospital, Mumbai, for its philanthropic purposes.

8 Subject to above, the criminal writ petition stands disposed of.

(V. L. ACHLIYA, J.)

(RANJIT MORE, J.)

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