

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3470 OF 2015

Vishmberlal Karamchand Khatri
& Ors.

..Petitioners.

Versus

State of Maharashtra & Anr.

..Respondents.

Mr. Girish Kulkarni i/by Mr. M.D.Pareek, advocates for petitioners.
Mr. L.P.Kanal, advocate for respondent no.2.
Mrs. M.M.Deshmukh, APP for the State.

Coram : RANJIT MORE &
R.G.KETKAR, JJ.

Date : 29th September, 2015.

P. C. :

Heard learned counsel appearing for the respective parties.

2 This petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Code of Criminal Procedure, 1973 to quash and set aside the proceedings of the Criminal Case No.365/P/1999 pending on the file of the learned Metropolitan Magistrate, 11th Court, Kurla, Mumbai.

3 The said case arises out of registration of F.I.R. bearing C.R.No.422 of 1997 with Chember Police Station at the instance of one Mr. Chhamatmal Tolaram Wadhwani the then president of respondent no.2 Swami Vivekanand Education Society for the

offences punishable under Sections 465, 468, 471, 420 read with Section 34 of the Indian Penal Code, 1860.

4 Pending trial of the subject criminal case, parties settled their disputes amicably and have approached this Court for quashing the subject criminal case by consent. Parties make a statement that the first informant Chhamatmal Tolaram Wadhwani has expired. Respondent no.2 has passed resolution in a meeting held on 21.2.2015 and authorised one Mr. Amar Asrani the treasurer to deal, negotiate, finalise, sign and depose in regard the pending matters of Rashtriya Seva Samiti. Resolution further authorised Mr. Amar Asrani to sign documents on behalf of Vivekanand Education Society and to sign and file affidavits, consent terms and any such document in pending court proceedings or any related proceedings. Copy of the said resolution is annexed at Page 99. In pursuance of the authority given under the said resolution, Mr. Asrani has filed affidavit dated 20.7.2015. In paragraph 4 he has stated that disputes between the parties have been amicably settled and therefore, respondent no.2 does not wish to proceed with the matter anymore . In paragraph 5 he has given no objection to quash the proceedings of the subject criminal case. Respondent no.2 is personally present in the Court. On specific query, he confirms the contents of the said affidavit. He also states that he has no objection to quash the proceedings of the subject criminal case.

5 It can, thus, be seen that the matter has been amicably

settled between the parties. From the perusal of complaint, it transpires 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 vs. State of Punjab** **[2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. 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.

4. Accordingly, the writ petition is allowed in terms of prayer clause (c) subject to payment of costs of Rs.10000/- by the petitioners to the **“Kirtikar Law Library”** . The petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within a period of two weeks from the date of receipt of this order failing which the criminal writ petition shall stand dismissed automatically without further reference to the Court.

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

[R.G.KETKAR, J.]

[RANJIT MORE, J.]

CERTIFICATE

Certified to be true and correct copy of the original signed judgment/order.