

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL APPLICATION (MAIN) NO. 54/2016

1. MR. J. DAVIDSON NADAR,
s/o John Koilpitchi, major,
45, Jublie Street, Nazareth,
Tuticorin District Tamil Nadu.
2. MR.G. FRANKLIN,
major, businessman,
45, 2nd Kailasapuram Street,
Nazareth, Tuticorin District,
Tamil Nadu.
3. MR. C. KESTER,
s/o Chandran, major,
2/182, North Street,
Itamozhi Nanguneri District,
Tamil Nadu.
4. MR.J. GUNASINGH,
s/o Mr. Jebaraj Nadar,
major of age No.37,
Jubilee Street, Nazareth,
Thoothukudi, Tamil Nadu.
5. K. SIMION,
S/o Mr. Koil Nadar, major,
No.46, Kailasapuram Street,
Nazareth, Thoothukudi,
Tamil Nadu.
6. A. PARANTHAMAN,
S/o Mr. Arikrishna Nadar,
major, No.90, Moses Street,
Nazareth, Thoothukudi,
Tamil Nadu. 628617.

Petitioners

Versus

1. The State Of Goa.
Through Police Inspector,
Margao Town Police Station,
Margao, Salcete, Goa.
2. M. Selvaraju Nadar,
major of age, businessman,

resident of Margao, Salcete,
Goa.

Respondents.

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Mr. Ryan DA Piedade Menezes, Advocate, for the petitioners.
Mr. S.R. Rivonkar, Public Prosecutor for respondent no.1.
Mr. R. Rao, Advocate for the respondent no.2.

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CORAM : F.M.REIS & N.D.SARDESSAI, JJ
DATED :31st MARCH, 2016.

ORAL JUDGMENT: (PER F.M. REIS, J)

1] Heard Mr. Ryan Menezes, learned counsel appearing for the petitioners, Mr. Rivonkar, learned Public Prosecutor appearing for the respondent no.1 and Mr. Rao, learned counsel appearing for the respondent no.2.

2] Rule. Heard forthwith by the consent of the learned counsel appearing for the parties. Mr. Rivonkar, learned Public Prosecutor waives notice on behalf of the respondent no.1 and Mr. Rao, the learned counsel waives notice on behalf of the respondent no.2.

3] The above writ petition seeks to quash and set aside the F.I.R. registered with Margao Police Station for the offence punishable under Sections 504, 506(ii) and 120-B of the Indian Penal Code by the respondent no.2.

4] Mr. Ryan, the learned counsel appearing for the petitioners has submitted that the dispute between the parties was with regard to a property transaction and the F.I.R. lodged by the respondent no.2 was on account of mis-appreciation of the fact and consequently the petitioners and the respondent no.2 have amicably settled the dispute and in fact based on the subject agreement the amounts were also refunded to the respondent no.2. Shri Rao, the learned counsel appearing for the respondent no.2, upon instructions of the respondent no.2, has filed a memo duly signed by the respondent no.2 confirming that the settlement has been arrived at with regard to the subject property. Mr. Rivonkar, the learned Public Prosecutor appearing for the respondent no.1 has no objection and points out that the investigation in the present matter had not yet been completed.

5] Considering the facts and circumstances of the case, as the parties have amicably settled the dispute, we find that based on such agreement which is accepted by the petitioner and the respondent no.2, the chances of getting the conviction of the alleged offence based on the F.I.R. would not at all be possible. The above view draws support from the judgment of the Apex Court reported in (2012)12SCC 401 in the case of **Jayrajsinh Digvijaysinh Rana v. State of Gujarat and another.**

6] Considering the above, we find that the petitioners are entitled to get the reliefs as prayed for in the above petition in the peculiar facts and circumstances of the case. Hence, Rule is made absolute in terms of Prayer clause (a) and (b).

7] At this stage, it was pointed by Mr. Ryan, the learned counsel appearing for the petitioners that as per the condition of the agreement the petitioners have deposited a sum of Rupees Five lakhs in this Court and that in terms of the settlement, such amount is to be refunded to the respondent no.2.

8] In the peculiar facts and circumstances of the case, as the matter has been amicably settled, the respondent no.2 is permitted to withdraw the said amount from the Registry with interest accrued thereon, if any.

N.D.SARDESSAI, J

F.M. REIS, J

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