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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.330 OF 2016

Noorjahan Begum and Ors.

..Petitioners.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.Ashley Cusher for the petitioners.

Mr.J.P. Yagnik, APP for the respondent-State.

Mr.Asif Naqvi for respondent No.2.

**CORAM : NARESH H.PATIL AND
A.M.BADAR, JJ.**

DATED : 15TH MARCH, 2016

P.C. :-

1. By this petition under Article 226 of the Constitution of India read with section 482 of Code of Criminal Procedure, 1973, petitioners / accused are praying for quashing of F.I.R. bearing MECR No.8/2015 for offence punishable under sections 416, 420, 406, 464, 465, 467, 468,

506(II) and 120B read with 34 of Indian Penal Code, 1860 with Vinoba Bhave Nagar police station, Mumbai at the instance of respondent No.2.

2. Petition for quashing the MECR is filed on the ground that parties are family members and the dispute is settled amicably.

3. Respondent No.2 is husband of petitioner No.1 and petitioner Nos.2 and 3 are their sons. According to respondent No.2, he is the owner of a Room No.144/3 located at Govavala Chawl, Agra Road, Kurla (W), Mumbai-70 and three shop galas located in Kurla and Gatkopar, Mumbai. He lodged complaint alleging that when he was ill due to high blood pressure and diabetes, petitioners got some documents signed by him by assuring him that he will get Rs.15,000/- per month without doing any work. After he recovered from his ailment, petitioners / accused did not allow him to enter into the shop galas owned by him.

4. On the basis of order passed by learned Metropolitan Magistrate, 45th Court, Kurla, Mumbai, Vinobha

Bhave police station, Mumbai registered the F.I.R. in question.

5. Learned counsel appearing for petitioners as well as respondent No.2 unanimously submitted that parties have settled the dispute amicably. The consent terms are placed on record which are marked as Exhibit 'X' for identification. Respondent No.2 has also tendered an affidavit dated 7th March, 2016 on record stating that as the dispute has been amicably settled in view of the consent terms, he has no objection for quashing the F.I.R. lodged at his instance. Affidavit tendered is marked as Exhibit 2 for the purpose of identification.

6. Respondent No.2 / original complainant is present before the Court. He is duly identified by his Advocate. Upon making inquiry from him, he has voluntarily stated that he does not wish to prosecute the F.I.R. lodged at his instance. He has accepted the consent terms explained to him.

7. Perusal of the F.I.R. shows that the dispute is predominantly of civil character arising between the nearest members of the family. They have settled the dispute. In this

view of the matter, for securing the ends of justice the criminal proceedings initiated by registration of F.I.R. in question needs to be quashed. Even otherwise, as parties have settled their dispute, chances of conviction of petitioners / accused are remote. Continuation of proceedings despite settlement between the parties would amount to abuse of process of Court. Hence petition deserves to be allowed.

8. The Petition is, therefore, allowed. F.I.R. bearing MECR No.8/2015 for offence punishable under sections 416, 420, 406, 464, 465, 467, 468, 506(II) and 120B read with 34 of Indian Penal Code, 1860 registered against the petitioners with Vinoba Bhave Nagar police station, Mumbai at the instance of respondent No.2. is hereby quashed and set aside.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)