

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1070 OF 2016

1. Jayshree Gandhi

2. Kumarpal Gandhi

Petitioners

versus

Ashok Patil and another

Respondents

Mr.Girish Kulkarni i/by Mr.M.G.Shukla for Petitioners.

Mr.J.P.Yagnik, APP, for State.

Mr.R.B.Mokashi for Respondent nos.1 and 1A.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 28 June 2016

PC :

1. Rule. Rule is made returnable forthwith. Learned APP waives service for Respondent State and Mr.R.B.Mokashi waives service for Respondent nos.1 and 1A.

2. The Petitioners have preferred this petition under Article 226 of the Constitution of India challenging the first information report ('FIR') dated 31 December 2015 registered with D.B.Marg Police Station, Mumbai. The said FIR has been registered at the instance of first Respondent vide CR No.377 of 2015 for offences punishable under Sections 465, 467, 468,

471, 420, 511, 34 of Indian Penal Code. The Petitioners are impleaded as accused in the said FIR.

3. The Petitioners have submitted that the dispute arising out of the impugned FIR has been settled between the concerned parties and that the complainant has consented for quashing impugned FIR.

4. In view of the prayer for quashing the FIR on account of amicable settlement between the parties, it is not necessary to reproduce the contents of the FIR in detail. Briefly stated, it is alleged by the complainant/first Respondent that the complainant had purchased the property bearing Old Survey No.557 and new Survey Nos.3 and 4 as well as 1331 situated at Girgaum, Mumbai. The sale deed was executed in favour of the complainant/first Respondent and his wife Respondent no.1A. The complainant had obtained loan from one of the accused and accused had obtained signatures of the complainant on various papers. It is further alleged that the accused had initiated civil proceedings by using false documents. It was alleged that the accused had prepared false documents and by utilising the signatures of the complainant and his wife, have committed the alleged offences.

5. Learned counsel for the Petitioners has submitted that the Petitioners had initiated arbitration proceedings in the High

Court at Bombay vide Arbitration Application No.1074 of 2015. It is further submitted that the parties have resolved their disputes and have arrived at amicable settlement. The submissions were supported by learned counsel for Respondent nos.1 and 1A. It was further submitted that the parties have filed consent terms in the said arbitration proceedings, which have been annexed to the petition as Exhibit-B. In the said consent terms, it is stated that the parties have amicably and mutually agreed and undertake not to initiate or prosecute any proceeding against each other and all claims against each other stands withdrawn/settled/cancelled in respect of loan which is the subject matter of the dispute. It is also mentioned that the Applicants therein would approach the High Court for quashing the impugned FIR since the dispute between the parties are settled and that the first Respondent would also support for quashing the proceedings, if any, preferred by the said Applicants, as the Respondent therein does not wish to continue with the criminal proceedings.

6. The first Respondent as well as Respondent no.1A have tendered affidavits dated 27 April 2016 and 22 June 2016. In the said affidavits it is stated that there were several litigations between the first Respondent and the accused and that the said disputes are resolved and consent terms are being filed. The first Respondent has no complaint and objection against the Petitioners for quashing the complaint. The first Respondent

has also stated that the parties have filed consent terms in the arbitration application before this Court and in view of the said consent terms, Arbitration Application No.197 of 2015 was disposed of. It is further stated that civil disputes between the Respondent no.1 & Respondent no.1A and the Petitioners are resolved. She further stated that she has no complaint and objection against the Petitioners-accused for quashing the said complaint.

7. We have perused the documents from which it is apparent that the parties have settled the disputes. Affidavits are tendered by the complainant as well as his wife, who was an aggrieved party in the said dispute and they have supported the prayers of the Petitioners. We have also considered the submissions of respective counsel that consent terms were submitted in the arbitration proceedings wherein the parties have stated that they have resolved the disputes and the complainant is withdrawing the allegations against the Petitioners. In view of the aforesaid circumstances, we are inclined to allow this petition by quashing the impugned FIR.

8. In case of **Gian Singh Vs. State of Punjab and another**¹, it has been observed by the Apex Court that High Court in exercise of its powers, may quash and set aside the criminal proceedings in the event of settlement being arrived at between

¹ (2012)10-SCC-303

the parties, in relation to the dispute which is private in nature and which has civil flavour.

9. In view of the aforesaid circumstances, we pass following order :

(a) Rule is made absolute;

(b) FIR dated 31 December 2015 registered with D.B.Marg Police Station, Mumbai vide CR No.377 of 2015 for offences punishable under Sections 465, 467, 468, 471, 420, 511, 34 of Indian Penal Code is quashed and set aside;

(c) All concerned to act on an ordinary copy of this order duly authenticated by registry of this Court.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST