

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1088 OF 2016

Sajid s/o. Ansari & Ors.

.. Petitioners

V/s.

The State of Maharashtra & Anr.

.. Respondents

.....
Mr. A. M. Saraogi, Advocate for the Petitioners.
Mrs. S. D. Shinde, APP for the Respondent No.1 - State.
Mr. U. V. Ugale, Advocate for Respondent No.2.
.....

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

DATED : JULY 4, 2016.

JUDGMENT (Per PRAKASH D. NAIK, J.) :

Rule.

2 Rule is made returnable forthwith.

3 Learned APP waives service for respondent no.1 -
State.

4 The Petitioners have invoked the writ jurisdiction of

this Court under Article 226 of the Constitution of India and the inherent powers under Section 482 of the Code of Criminal Procedure and sought to challenge the criminal proceedings which are subject matter of CC No.1424/PW/2015. The said proceedings are arising out of C.R.No.217 of 2014 registered with Chunabhatti police station on 15th September, 2014 for the offences punishable under Sections 143, 147, 149, 448, 504 and 506 (II) of the Indian Penal Code (for short "IPC"). Petitioners are impleaded as accused in the said First Information Report (for short "FIR") which was registered at the instance of second respondent.

5 The brief facts of the prosecution case as as follows:

- (a) Second respondent has been residing in room no. 2, first floor, 33/A, Salmabi Chawl, Qureshi Nagar, Kurla (West), Mumbai - 70.
- (b) It is alleged that the premises besides the room occupied by second respondent were originally occupied by one Shafi Ahmed. He was interested in disposing of the said premises.

- (c) Second respondent intended to purchase another room and hence she along with her husband entered into negotiation with the vendor and purchased the premises for consideration. They parted with the consideration amount to the vendor.
- (d) The landlord of the said property had issued rent receipts in respect of the premises. On 13th August, 2014 when the family members of second respondent were occupying the said room, the accused entered into the said premises and took over possession of the said premises. In view of the aforesaid incident, second respondent lodged the FIR.

6 Petitioners have stated in the petition that the petitioner no.3 had filed a civil suit before the City Civil Court and necessary injunction has been granted in the said suit. It is further stated that the conflict between the parties was with regard to the tenancy right in respect to the said premises. It was further stated that the matter has been settled between the parties and they have filed the present petition for quashing the said criminal proceedings.

7 Learned counsel appearing for the second respondent have submitted that the parties have settled the dispute amicably and they intend to put an end to the proceedings between them. It is further submitted that the impugned proceedings may be quashed with consent of both the parties on account of settlement between them. Second respondent has tendered an affidavit before this Court, which was affirmed on 4th July, 2016. It is stated that the dispute has been settled between her and the petitioners and that she has no grievance of whatsoever nature against the petitioners. It is also stated that the parties have arrived to Consent Terms which is duly signed by them. It is further stated that the matter have been amicably settled and she has no objection if FIR No.217 of 2014 is quashed against all the petitioners. She further stated that the present affidavit is being filed giving consent for quashing the FIR bearing C.R.No.217 of 2014. The said affidavit is taken on record and marked “X” for identification.

8 We have gone through the contents of the petition as well as the charge sheet annexed to the petition. We have also perused the affidavit tendered by second respondent. The dispute relates to the right of parties in relation to the immovable

property. The complainant and the accused have arrived at amicable settlement and intend to put an end to the proceedings. We are satisfied that the dispute is of private nature. Second respondent has supported the prayer of the petitioners by tendering an affidavit and giving her consent for quashing the proceedings. In the case of ***Gian Singh V/s. State of Punjab & Anr.¹***, the Apex Court has categorically observed that the High Court can exercise of power of quashing the proceedings by consent of the parties in the event of settlement being arrived at between them in relation to the disputes which are private in nature. Considering the circumstances stated herein above, we are inclined to allow this petition.

9 Hence, We pass the following order:

:: ORDER ::

- (i) Rule is made absolute.
- (ii) Criminal Proceedings in C.C.No.1424/PW/2015, pending before the Court of Metropolitan Magistrate 60th Court, Kurla, Mumbai which are

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arising out of C.R.No.217 of 2014 registered with Chunabhatti Police Station for the offences punishable under Sections 143, 147, 149, 448, 452, 504 and 506(II) of the Indian Penal Code stands quashed and set aside.

- (iii) Parties to act upon an authenticated copy of this order.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)