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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
WRIT PETITION NO.1545 OF 2013

Mrs.Jaya Sidram Kokane & Anr. ...Petitioners
vs.
The State of Maharashtra & Ors. ...Respondents

Mr.Ram Mani Upadhyay a/w Mr.Shafi Shaikh i/b
Mr.R.V.Bansode for the Petitioners
Ms M.H.Mhatre, APP for the respondent Nos.1 and 2.
Mr.O.D.Goswami for respondent No.3

CORAM : A.S.OKA, &
 A.A.SAYED, JJ.
DATE : OCTOBER 6, 2016

P.C.:

1 Heard the learned counsel for the petitioners, the learned counsel for the third respondent and the learned APP for first and second respondents. Rule. The respondents waive service. Forthwith taken up for final disposal.

2 The second respondent is the first informant. The prayer in this petition under Article 226 of the Constitution of India is for quashing the FIR registered for the offence under sections 406, 420, 467, 468, 471, 452 449 read with section 34 of the Indian Penal Code. The first information report was registered on the basis of the order of the learned Magistrate under sub-section (3) of section 156 of the Code of Criminal Procedure, 1973 (for short 'CrPC'). The allegation in the FIR is that a room

owned by the second respondent was granted on tenancy basis to one Shashikant Konkane and Jaya Konkane who in turn ensured that the room is transferred to the name of the second petitioner.

3 It appears that there was a proceeding filed before the Competent Authority under the Maharashtra Rent Control Act for the purpose of eviction. A writ petition was filed by the said Jaya Konkane and the petitioners herein being Writ Petition No.9341 of 2016 to which the first informant was the first respondent. In the said writ petition, consent terms were filed by the parties to the petition. In clause (6) of the consent terms, the first informant recorded her consent for quashing the criminal proceedings subject matter of the present petition as a result of the settlement of the dispute in relation to the room in question. On the basis of the consent terms, by order dated 31st August 2016, the aforesaid petition has been disposed of in terms of the consent terms by the learned Single Judge of this Court.

4 The dispute as reflected from the first information report is essentially a civil dispute. Now in view of the complete settlement of the dispute in respect of the room in question, continuation of criminal proceedings will not serve any purpose. The chances of conviction are very bleak. Therefore, in the light of the decision of the Apex Court in the case of Gian Singh versus

State of Punjab and another¹, this is a fit case to exercise power under section 482 of the Cr.P.C to quash the proceedings.

5 Accordingly, we pass the following order:

(I) Rule is made absolute in terms of prayer clause (a) which reads thus:

“(a) That this Hon'ble Court may be pleased to issue writ of mandamus or certiorari or writ in the like nature, thereby quash and set aside the impugned FIR bearing No.MECR No.1 of 2012 dated 12.5.2012 registered at Nirmal Nagar Police Station, Greater Mumbai u/sections 406, 420, 467, 468, 471, 452, 449 read section 34 of the Indian Penal Code.”

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

(A.A.SAYED, J.)

(A.S.OKA, J.)