

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

CRIMINAL WRIT PETITION NO. 1986 OF 2016

Shri Rajaram Shankar Harnaval & ors. ... Petitioners

V/s.

The State of Maharashtra & anr. ... Respondents

Mr. S.P. Kadam i/b. Mr. B.S. Shinde for the petitioner.

Mr. Jitendra Gaikwad for respondent no.2.

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

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

28th July, 2016.

P.C.

The petitioners are accused in C.R. No. 105/2007 registered on 30th May, 2007 with Indapur Police Station, Pune for the offences punishable under Sections 147, 148, 149, 337, 326, 323, 504 of IPC. There is no dispute that trial in the said case has already commenced. An application was filed before the learned Magistrate, Indapur on 21st October, 2015 by Complainant Gangaram Maruti Bichkule seeking permission to compound the offences.

2. By an order dated 21st October, 2015 the Judicial Magistrate, First Class, Indapur passed order below Exhibit 75 in RCC No. 143 of 2007 as under:

“ Read the application and say. I heard both the learned counsels. I gone through roznama and record of the case. The charge is framed against the accused for the offence punishable u/s. 143, 147, 148, 337, 326, 325, 323, 504, 506 read with 149 of I.P.c. Alleged offence against the accused i.e. offence punishable u/s. 143, 147, 148 and 326 of I.P. Code are non-compoundable. Hence, in my opinion this application is not maintainable and liable to be rejected. Hence this application is hereby rejected.”

3. A writ petition was preferred by the accused. Learned Counsel further submits that Writ Petition No. 1486/16 filed by the accused was dismissed as withdrawn. The learned Single Judge of this Court (Coram: A.S. Gadkari, J) passed order on 25th April, 2016 as under:

“ After hearing the learned counsel for the petitioners, when this Court was not inclined to quash the proceedings in view of the ratio laid down by the Supreme Court in the case of Gian Singh Vs. State of Punjab & anr. reported in 2012 Cri. L.J. 4934, the learned Counsel for the petitioners on instructions seeks leave to withdraw the present petition with liberty to agitate all the contentions at the time of trial.

Leave and liberty granted.

The Writ Petition is dismissed as withdrawn.”

4. The learned counsel appearing for petitioners/accused submits that for want of proper legal advise, a petition came to be filed before the learned Single Judge, consequently which was withdrawn. The parties are related *inter se*. The accused and Complainant have settled the dispute and in view of the amicable settlement, they pray to quash and set aside the subject criminal prosecution arising out of C.R. No.105/2007.

5. The respondent no.2-Complainant has filed an affidavit before this Court.

6. In normal course, we would have entertained such a petition and dealt with the same on its own merits. But in this case the petitioners had already approached the learned Single Judge with the identical prayer. The learned Single Judge was not inclined to quash the proceedings. The petitioner had withdrawn the petition with liberty to agitate all the contentions at the time of trial. It is not disputed that trial has already commenced.

7. In this view of the matter, it would not be proper on our part to entertain the writ petition under Article 226 and under Section 482 of the Criminal Procedure Code. The petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.