

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

CRIMINAL WRIT PETITION NO.3574 OF 2015

Jaswinder Singh Sohal	.. Petitioner
V/s.	
The State of Maharashtra & Ors.	.. Respondents

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Mr. K. B. Rajput, Advocate for the Petitioner.
Mrs. M. M. Deshmukh, APP for Respondent – State.
Mr. S.S. Raut, Advocate for Respondent No.2.
Mr. Salik Khan, Advocate for Respondent Nos.3 to 5.

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

DATED : JULY 12, 2016.

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

Rule. Rule is made returnable forthwith.

2 Learned APP waives service for Respondent – State.

3 The petitioner have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India as well as the inherent powers under Section 482 of the Code of Criminal Procedure and sought to challenge the criminal proceedings pending before the Court of Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai.

4 The petitioner is impleaded as accused in C.R.No.179 of 2012, registered with Bandra Kurla Complex (for short “BKC”) Police Station on 22nd December, 2012, for the offences punishable under Sections 420, 465, 467, 468, 471 and 511 read with Section 34 of the Indian Penal Code (For short “IPC”). The said FIR was registered at the instance of the second respondent. On completing the investigation, the charge-sheet was filed before the competent Court and the proceedings are presently pending before the aforesaid Court vide C.C.No.4005/PW/2015.

5 It is the case of the complainant that he is the real brother of the petitioner - accused. In the year 1966, the mother of the petitioner and second respondent purchased the property bearing Plot No.4611-A of T.P.S. - VII at Khar bearing C.T.S.No. E/157. It is further alleged that the agreement was executed in the year 1979 and since their mother had friendly relationship with the co-accused, a power of attorney was executed by her in their favour. The mother passed away on 18th April, 2007 and it was further found that the power of attorney was allegedly fabricated by the petitioner in connivance with the other accused.

6 Learned counsel appearing for the petitioner and the

second respondent submitted that the parties have arrived at peaceful settlement. It is decided by both the parties to compromise the dispute on certain terms and, therefore, had approached this Court for quashing the proceedings by consent. It is submitted that the petitioner and respondent no.2 are real brothers and the dispute is essentially related to property transaction which was originally entertained by their mother. It is also stated that the transaction was duly completed by execution of proper documents.

7 Second respondent has tendered an affidavit before the Court of Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai on 29th August, 2015, stating that the matter is settled between both the parties. The said fact was recorded by the Court in its order dated 29th August, 2015, and the accused/petitioner was directed to be released on bail. The said affidavit as well as the order passed by the Court are annexed to this petition. Second respondent has also submitted an affidavit before this Court wherein it is stated that the dispute has been settled and he does not wish to proceed with the FIR against the accused. It is further mentioned that the dispute pertains particularly to family assets and related transactions between the

family members and, therefore, it was their intra-individual understanding to resolve their dispute amicably. It is also mentioned that the complainant has intimated the investigating agency not to proceed with the FIR which is also reflected in the affidavit filed by him before the Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai on 29th August, 2015. It further averred that the first informant is not interested in pursuing the prosecution and unconditionally withdrawing the complaint. It is further mentioned that the transaction of sale has been completed in relation to the subject property and that he do not have any objection for quashing the criminal proceedings arising out of C.R.No.179 of 2012.

8 We have perused the contents of the petition, the documents annexed therein as well as the affidavit tendered by the complainant. It is noticed that the dispute had arisen out of the property transaction. The petitioner and the second respondent are real brothers. The dispute was related to the transaction executed by their mother. The dispute is being resolved and the parties have completed the transaction and in view of that the complainant do not want to pursue the criminal prosecution. The dispute is essentially of private nature and

public at large has no nexus with the same. The Apex Court in the case of ***Gian Singh V/s. State of Punjab & Anr.***¹, has observed that the High Court may exercise the powers of quashing in respect of the dispute which are private in nature in the event of amicable settlement arrived at between the respective parties. In view of the aforesaid circumstances, we are inclined to allow this petition and quash the criminal proceedings which are under challenge.

9 Hence, We pass the following order:

:: ORDER ::

- (i) Rule is made absolute.
- (ii) Criminal Proceedings in C.C.No.4005/PW/ 2015 arisen out of C.R. No.179 of 2012 registered with B.K.C. Police Station for the offences punishable under Section 420, 465, 467, 468. 471 and 511 read with Section 24 of the Indian Penal Code are hereby quashed and set aside, subject to payment of costs of Rs.20,000/-

¹(2012) 10 - SCC 303

(Rupees Twenty Thousand) to be paid by the Petitioner to the Police Welfare Fund by 5th August, 2016;

- (iii) Payment of costs is a condition precedent for quashing the FIR. The order of quashing the FIR would be operative after the Petitioner deposits the amount of costs and submits receipt of the same to the registry of this Court;
- (iv) The In-charge Police Officer of Bandra Kurla Police Station, Mumbai shall take cognizance of this order only if Petitioner produces an authenticated copy of this order along with a photostat copy of receipt of payment of costs;
- (v) Parties to act upon an authenticated copy of this order.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)