

IN THE HIGH COURT OF BOMBAY AT GOA.**CRIMINAL WRIT PETITION NO. 142 OF 2017.**

1. Flenson Rego,
Son of Jesus Rego,
21 years of age,
Resident of Forgotten
Waddo, Goa Velha,
Ilhas, Goa.
2. Faisal Sheikh, son of
Rafique Shaikh,
aged 20 years,
Resident of Malbhat
Pilar, Goa Velha, Ilhas, Goa.
3. Hussain Shaikh, Son of
Abdul Shaikh, 20 years
of age, Resident of Malbhat
Pilar, Goa Velha, Ilhas, Goa. Petitioner.

Vs.

1. State of Goa,
Through Police Inspector,
Panaji Police Station,
Panaji, Goa.
2. Mr. Sanjay Madhu Salkar,
Major, House No.193(6),
Murgawada, Advalpal,
Assonora, Bardez, Goa. Respondents.

**Coram:-C. V. BHADANG &
PRITHVIRAJ K. CHAVAN,JJ.**

Date :- 21st September, 2017.

Shri K. Padgaonkar, Advocate for the petitioners.

Shri M. Amonkar, learned Addl. Public Prosecutor for the respondent no.1.

Respondent no.2 present in person.

JUDGMENT (Per C. V. BHADANG, J)

Rule, made returnable forthwith. Shri M. Amonkar, learned Addl. Public Prosecutor waives service on behalf of respondent no.1. Second respondent is present in person. the second respondent has filed an affidavit, which is taken on record and marked "X" for identification.

2. By this petition, the petitioners are seeking quashing of the Criminal Case No.237/2013/B on the file of the learned JMFC, Panaji.

3. On the basis of a complaint lodged by the second respondent Santosh Salkar, who is a driver working with the Kadamba Transport Corporation, an offence punishable under Sections 504, 353, 427 read with Section 34 of IPC was registered against the petitioners. On investigation, the petitioners are put on trial for the offences punishable under Section 353 and 427 of IPC in the aforesaid case. It appears that subsequent to the filing of the chargesheet, the complainant has settled the dispute with the petitioners and hence, an application came to be filed before learned Magistrate on 24.7.2015 for permission to compound the offences. The learned Magistrate by an order dated 24.7.2015, permitted compounding of offence under Section 427 read with Section 34 of IPC for which the petitioners have already been acquitted. However, learned Magistrate could not permit compounding of the offence

under Section 353 of IPC, as the same is non-compoundable. Hence this petition.

4. We have heard learned Counsel for the petitioners, learned Additional Public Prosecutor for the respondent no.1 and the second respondent in person. Second respondent has no objection for quashing of the proceedings.

5. The Hon'ble Apex Court in case of ***Gian Singh Vs State of Punjab and another, (2012) 10 SCC 303***, has inter alia held that in an appropriate case this Court can exercise jurisdiction to put an end to the prosecution in view of compounding of the dispute between the parties. Here, the complainant who is the person aggrieved has settled the dispute with the petitioners and has expressed no objection for quashing the proceedings. Hence, following order is passed:-

ORDER

1. Petition is allowed.
2. Proceedings in Criminal case no.237/2013/B pending on the file of learned JMFC, Panaji, are hereby quashed.
3. Rule is made absolute in the aforesaid terms.

PRITHVIRAJ K. CHAVAN,J.

C. V. BHADANG,J.