

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

CRIMINAL WRIT PETITION NO.1186 OF 2016

WITH

CRIMINAL WRIT PETITION NO.1190 OF 2016

Ms Rekha D/o. Ramratan Tripathi ...Petitioner

Versus

The State of Maharashtra and Anr. ...Respondents

...

Mr. Sushil Upadhyay i/b. Mr. Ashok M. Saraogi for the Petitioner.

Mr. K.V. Saste, APP for the Respondent No.1-State.

Ms Sonal Parab i/b. M/s. Rajeev Sawant and Associates for
the Respondent No.2.

WITH

CRIMINAL WRIT PETITION NO.3747 OF 2014

Mr. Sandesh Sadashiv Rewle ...Petitioner

Versus

The State of Maharashtra and Anr. ...Respondents

....

Mr. Shreeram Shirsat with Mr. Kamal Choudhary for the Petitioner.

Mr. K.V. Saste, APP for the Respondent No.1.

Ms Sonal Parab i/b. M/s. Rajeev Sawant and Associates for
the Respondent No.3.

WITH

CRIMINAL APPLICATION NO.45 OF 2017

Mr. Ram Avadh Pal & Anr. ...Applicants

Versus

The State of Maharashtra and Anr. ...Respondents

WITH

CRIMINAL APPLICATION NO.47 OF 2017

Mr. Ajay Udayraj Yadav & Ors. ...Applicants

Versus

The State of Maharashtra and Anr. ...Respondents

WITH

CRIMINAL APPLICATION NO.126 OF 2017

Shri Shrivandas Sukhram Kabir

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

.....

Ms Sonal Parab i/b. M/s. Rajeev Sawant and Associates for the Applicants.

Mr. K.V. Saste, APP for the Respondent No.1-State.

Mr. Sushil Upadhyay i/b. Mr. Ashok Saraogi for the Respondent No.2.

CORAM : A.S. OKA &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 15th MARCH, 2017.

P.C.:-

Rule. The learned APP waives service of notice for the Respondent-State. The learned counsel appearing for the first Informant and accused waives service of notice. The prayer made in these Petitions under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is for quashing different First Information Reports viz; M.E.C.R. No.7 of 2014 registered with Charkop Police Station, M.E.C.R. No. 8 of 2013 registered with Charkop police station, C.R. No.68 of 2013 registered with Charkop Police station, C.R. No.45 of 2012 registered with Charkop Police Station and C.R. No.47 of 2012 registered with Charkop Police Station. The Petitions are interconnected. Therefore, we are deciding the same together.

2. In Writ Petition No.1186 of 2016 wherein prayer is made for quashing M.E.C.R. No.7 of 2013, reliance is placed on the consent terms filed in S.C. Suit No.118 of 2012 filed by the First Informant against the Petitioner in the said Writ Petition. From the First Information Report, it appears that the dispute was as regards a temple and certain rooms attached to the temple. In terms of the consent terms filed between the Petitioner and the second Respondent in the said Writ Petition, by order dated 3rd March, 2016 said suit was disposed of in terms of the consent terms. The consent terms provide that the Petitioner in the said Petition shall withdraw Suit No.239 of 2011 filed by her. Clause (7) of the said consent terms is material, which reads thus:-

“7. All the criminal cases by and between the Plaintiff and Defendant No.1 have been agreed to settled by signing the consent terms. The copy of said consent term is annexed herewith.”

3. We have perused the said consent terms referred in Clause (7). The consent terms are dated 3rd March, 2016. The perusal of the consent terms shows that apart from the parties to the suit, the

contesting parties to this group of Petitions /Applications have signed the said consent terms. The consent terms refer to criminal proceedings which are the subject matter to this group of Petitions /Applications. The consent terms records settlement of the dispute concerning the rooms attached to the temple and the temple. It is recorded that the possession of the said rooms has been handed over to Shravandas Sukhram Kabir, who is described as the party of the sixth part. In all these Petitions, affidavits have been filed by the first Informants confirming the aforesaid settlement.

4. Perusal of the impugned First Information Reports/charge sheets shows that the dispute was essentially arising out of the said rooms which are attached to the temple and the temple itself. Now there is a complete settlement of the said dispute as evidenced by the aforesaid consent terms and affidavits of the first Informants, which are placed on record.

5. The dispute as reflected from the impugned First Information Reports has predominantly a civil flavour and in fact criminal law ought not to have been set in motion on the basis of the said dispute.

6. In view of the complete settlement of dispute regarding the immovable property, no purpose will be served by continuing criminal proceedings. As the first Informants in each case have paid a donation of Rs.25,000/- to Tata Memorial Fund, we do not propose to pass a separate order as regards the payment of costs.

7. Accordingly, the Petitioners succeeds, we pass following order :

(I) In Writ Petition No.1186 of 2016 rule is made absolute in terms of prayer clause (a) which reads thus:

“a) that this Hon'ble Court be pleased to issue appropriate writ, order and direction directing the quashing of MECR No.7 of 2013 registered under the provisions of Section 420, 406, 389, 193,, 195, 196, 201, 211, 218, 182 r/w 120(B) r/w 34 of IPC pending before the Hon'ble MM 24th Court at Borivali, Mumbai on such terms as this Hon'ble Court may deem fit and proper.”

(II) In Writ Petition No.3747 of 2014 Rule is made absolute in terms of prayer clause (b) which reads thus:-

“b) Quash and set aside the registration of FIR-MECR 7/13 lodged at the instance of Shravandas Sukhram Kabir and MECR 8/13 lodged at the instance of Phulchand Jaiswar both registered at Charkop Police Station against the

petitioner.”

(III) In Writ Petition No.1190 of 2016 Rule is made absolute in terms of prayer clause (a) which reads thus:-

“a) that this Hon'ble Court be pleased to issue appropriate writ, order and direction directing the quashing of Case No.SC ST Case No.1 of 2015 arising out of MECR No.8 of 2013 u/s. 420, 406, 389, 193, 195, 196, 201, 211, 218, 182 r/w 120(b) r/w 34 of IPC.”

(IV) In Criminal Application No.45 of 2017 Rule is made absolute in terms of prayer clause (a), which reads thus:-

“a. That this Hon'ble Court may be pleased to quash and set aside the proceedings pending on the files of Ld. Metropolitan Magistrate 24th Court, at Borivali, Mumbai in C.C. No.2873/PW/2012 arising out of C.R. No.68 of 2013 registered with Charkop Police Station against the present Applicants filed at the instance of Respondent No.2 on any such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case.”

(V) In Criminal Application No.47 of 2017 the Rule is made absolute in terms of prayer clause (a), which reads thus:

“a. That this Hon'ble Court may be pleased to quash and set aside the proceedings pending on the files of Ld.

Metropolitan Magistrate 24th Court, at Borivali, Mumbai in C.C. No.724/PW/2012 arising from C.R. No.45 of 2012 registered with Charkop Police Station filed at the instance of Respondent No.2 on any such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case.”

8. We make it clear that the learned counsel for the Petitioners /Applicants stated that they are not pressing any other prayers made in this group of Petitions /Applications except aforesaid prayers.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)