

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 332 OF 2017**

Shyamsunder Bhagwandas Peswani
& Anr.

..Petitioners

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. Santosh D.Thakur for the Petitioners.

Dr. F.R.Shaikh, APP for the Respondent No.1.

Mr. Shakil Mahajan a/w. Utsav Salunke for the Respondent No.2.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 2ND FEBRUARY, 2017**

P.C.

1. Rule. The learned APP waives service for the first respondent.

The learned Counsel appearing for the second respondent waives service. Forthwith taken up for hearing.

2. The prayer made in this petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report registered at the instance of the second respondent for the offences

punishable under Sections 448, 511, 323, 504 and 506 of the Indian Penal Code. The second respondent is the first informant.

3. We have perused the First Information Report and the statement of the second respondent. From the statement of the second respondent on the basis of which the First Information Report is registered, it appears that there is a dispute about a flat at Santacruz in Mumbai between the first petitioner and the second respondent. The first petitioner is the uncle of the second respondent. In Suit (lodging) No. 804 of 2016 filed by the first petitioner, on the Original Side of this Court, the second respondent was the second defendant. Consent terms were filed in the said suit on 27th October, 2016, before the learned Single Judge. As per clause (e) of para 12 of the consent terms, the second respondent agreed to co-operate for quashing the First Information Report, which is the subject matter of challenge.

4. Perusal of the consent terms shows that there was a settlement between the parties in relation to the dispute in respect of the said flat, as well as all other subsisting disputes. Shri Narayan T. Lakhani, the Constituted Attorney of the second respondent has filed an

affidavit reiterating the settlement arrived at in the suit and giving consent to quash the FIR. A true copy of the Power of Attorney executed in his favour by the second respondent is annexed to the affidavit.

5. As stated earlier, the dispute was between Uncle and Nephew in relation to a flat. Now the entire dispute has been settled. No purpose will be served by continuing the prosecution. Hence, we pass the following order:

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

“Quash the FIR No.144/2016 lodged on 17.03.2016 under Sections 448, 511, 323, 504 and 506 of Indian Penal Code, 1860 by Respondent No.2 against the Petitioners with Santacruz Police Station.”

ii) All concerned to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)