

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1188 OF 2017

Sushil Kumar Shantilal Khater (Jain)	Petitioner
versus	
The State of Maharashtra and another	Respondents

WITH
WRIT PETITION NO.1357 OF 2017

Suresh Chhotelal Sharma	Petitioner
versus	
The State of Maharashtra and another	Respondents

WITH
CRIMINAL APPLICATION NO.309 OF 2017

Nahush Shah	Applicant
versus	
The State of Maharashtra and another	Respondents

Mr.Subhash Jha with Ms.Sanjana Pardeshi i/by Law Global for
Petitioner in WP1188/2017 and WP1357/2017.

Mr.S.U.Kamdar, Senior Advocate, i/by Ms.Racheeta R. Dhuru for
Applicant in APL.309/2017.

Mrs.M.H.Mhatre, APP, for State.

Mr.Ashok Upadhyay for Respondent no.2 in all matters.

CORAM : S.C.DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.

DATE : 29th March 2017

PC :

1. In Writ Petition No.1188 of 2017, the Petitioner seeks quashing
of first information report being CR No.10 of 2012 registered with

Cuffe Parade Police Station alleging offences punishable under Sections 204, 409, 420, 120(B) of Indian Penal Code.

2. We have perused the statement of one Ajaykumar Garg. He is the complainant. We have also perused the related papers including a copy of the consent terms tendered in High Court, Original Side Suit No.2870 of 2013 filed by complainant and a private limited company of which he is a director.

3. On perusal of all this, we are satisfied that there was a civil dispute and which was the foundation of these criminal proceedings. In that civil dispute, terms of settlement have been filed and which record arrangements of payment between the parties. The consent terms also record an agreement of all parties to the suit including the present Petitioner and the complainant that criminal proceedings shall not be pursued. The settlement is amicable. There was no pressure and force on all parties to settle the matter. All parties are businessmen. They are aware of the dealings in the property market. In such circumstances, there is no hesitation in accepting their statement that they have settled the matter between them amicably. Thus, the criminal proceedings can be quashed at their instance. After the above settlement, continuation thereof will be an abuse of the process of the Court.

4. A statement is made on instructions by learned APP that there are accused other than Petitioners/Applicant before us. We clarify that this order is restricted to the Petitioners/Applicants before us. In the event the investigation results in filing of the charge sheet and if

further proceedings pursuant to the same have to go on in accordance with law, then we have no hesitation in clarifying that barring these Petitioners/Applicant, others involved in the criminal case cannot derive any benefit of the present order.

5. As a result of the above, the petitions succeed. The first information report as also Criminal Case No.CC.352/PW/2016 on the file of learned Additional Chief Metropolitan Magistrate, 47th Court, at Esplanade, Mumbai are quashed qua the Petitioners/Applicants before us.

6. Writ Petition Nos.1188 of 2017 and 1357 of 2017 as also Criminal Application No.309 of 2017 stand disposed of with above directions.

(PRAKASH D. NAIK, J.)

(S.C.DHARMADHIKARI, J.)

MST