

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO.1848 OF 2017
WITH
WRIT Petition NO.1847 OF 2017**

Pratham Builders and Developers

Pvt. Ltd.

Through Rajiv Yashwant Bhale & Ors.Petitioners

V/s.

The State of Maharashtra & Anr.Respondents

Ms. Apurva Thipse i/by Mr. S.S.Gawde, Advocate for Petitioners in both Petitions.

Mr. J.P.Yagnik, APP for the Respondent-State.

Mr. Abhishek Yende i/by Vaishali R. Sonkamble, Advocates for Respondent No.2.

**WITH
WRIT Petition NO.3337 OF 2016**

Sheetal Kishanchand Tejawani @

Sheetal Sagar Suryawanshi and Anr.Petitioners.

V/s.

State of Maharashtra & Ors.Respondents.

Mr. Abhishek Yende i/by Vaishali R. Sonkamble, Advocates for Petitioners.

Mr. J.P.Yagnik, APP for the Respondent-State.

Ms. Apurva Thipse i/by Mr. S.S.Gawde, Advocate for Respondents.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 12TH SEPTEMBER, 2017.

PC. :-

By the above Petitions, the Petitioners are seeking quashing of the FIR No.48 of 2015 dated 16.2.2015 (Subject matter of Writ Petition No.3337/2016) registered with the Hinjewadi Police Station, Pune and the proceedings arisen therefrom which are pending before the JMFC, Pune. The Petitioners are also seeking quashing of the order dated 30.10.2015 passed on the complaint made by the Respondent-Vinay Arhana under Section 156(3) of the Cr.P.C. by the learned JMFC, Pune. The Petitioners are also seeking quashing of the FIR being 58 of 2015 (Subject matter of W.P.No.1848/2017) registered with the Sangvi Police Station, Pune for the offences punishable under Sections 406, 420 read with Section 34 of the IPC. The said two FIRs and the complaint filed under Section 156(3) of Cr.P.C. are the fall out of a sale in respect of a plot of land comprised in Survey Nos.68 and 69 belonging to the Petitioners in Writ Petition No.1847 of 2017. The said FIRs and the complaint filed under Section 156(3) of the Cr.P.C. can be said to be the cross complaints of the parties. Parties have made allegations and counter allegations against each other which this Court does not deem it appropriate to go into. Having regard to the fact that the parties have arrived at a settlement and thereby seek quashing of

the FIRs and setting aside of the order dated 30.10.2015 passed on the complaint made under Section 156(3) of the Cr.P.C., by consent. Suffice it to say that, the parties were involved in civil litigation on account of dispute relating to the sale of a plot of land being Regular Civil Suit No.1389 of 2013 filed by the Petitioners, i.e., Pratham Builders and Developers Private Ltd. In the said suit, the parties have entered into Consent Terms on 22.3.2016. In the context of the reliefs sought in the above Petitions, Clause 16 of the said Consent Terms is material and is re-produced hereunder:

“16) The parties further hereby unconditionally withdraw all their respective allegations made against each other. The Defendant No.1 hereby agrees to withdraw the Regular Civil Suit No.1927/2013. The Plaintiff No.1 further agrees to withdraw the criminal complaint bearing No.3599/2015 filed by him against the Defendant Nos.1 and 2 pending before the learned J.M.F.C. The Defendant No.2 further shall withdraw the FIR No.58/2015 by filing requisite applications, give statement, affidavit pending before the Hinjewadi Police Station against the Plaintiff Nos.1 and 3.”

2 Apart from the said Clause 16, the Consent Terms contain diverse covenants evidencing the settlement arrived at between the parties. It is not necessary to advert to the other clauses

to the covenants of the Consent Terms. The First Informant in so far as the FIR No.48 of 2015 is concerned, has also filed an affidavit dated 9.8.2017. Paragraphs 6 and 7 of the said affidavit are material and are reproduced hereunder:

“6) I say that the Respondent No.2 and Petitioners have resolved their differences and have settled their matter amicably and have arrived at Consent Terms on 22.3.2016 between both the parties. The said consent terms are filed in the Court of Civil Judge Junior Division, Pune and the Hon'ble Court was pleased to accept the consent terms and passed an order on 9.4.2016 in the said suit.

7) I say that the Petitioners filed present Petition for quashing of criminal complaint no.3599 of 2015 filed by the Respondent No.2. The Respondent No.2 further states that, the Respondent No.2 are not desirous to continue with the F.I.R. bearing C.R.No.48 of 2015 registered with the Hinjewadi the Respondent No.1 and R.C.C.No.3599/2015 against the Petitioners as all the disputes between them are settled amicably. The dispute between the Petitioners and Respondent No.2 have been settled in terms of compromise with one of the terms of compromise being that the criminal proceedings may be withdrawn.”

3 The Complainant in so far as the complaint under Section 156(3) of the Cr.P.C. is concerned, has also filed his affidavit

dated 1.8.2017 and affirmed before the Notary Public Mr. H.M.Girme, Notary, Government of India and bearing Notarial Register No.220 of 2017.

4 The First Informant Umesh Vanpal is not personally present in the Court. However, the learned counsel appearing for Pratham Builders and Developers Private Ltd of which he is a director accepts the fact that Consent Terms have been arrived at between the parties.

5 The First Informant in so far as the FIR No.58 of 2015 is concerned, Ms. Sheetal Kishanchand Tejawani @ Mrs. Sheetal Sagar Suryawanshi has also filed her affidavit dated 2.8.2017 and affirmed before the Notary Public Mr. S.M.Naqvi, Notary, Government of India and bears Notarial Register No.235 dated 2.8.2017. Mrs. Sheetal Suryavanshi is personally present in the Court. She is identified by Shri Yende the learned counsel appearing for her. She is also identified by her PAN Card No.AEFPT6719Q. When put in the box and queried, she states that she accepts the fact that the Consent Terms have been entered into between the parties in the civil proceedings and that the affidavit tendered by Shri Yende appearing for her dated 2.8.2017 is hers and she accepts the contents thereof.

6 The learned counsel Shri Yende appearing for the Complainant Vinay Arhana states that on account of his indisposition he is unable to remain present in the Court.

7 Having regard to the fact that the parties have amicably resolved their disputes by filing Consent Terms in the civil proceeding, i.e., Regular Civil Suit No.1389 of 2013 coupled with the affidavits as stated above and having regard to the judgments of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. There is, therefore, no impediment in quashing the two FIRs being 48 of 2015 and 58 of 2015 as also the order dated 30.10.2015 passed in the complaint made by Shri Vinay Arhana, the Petitions are accordingly allowed and made absolute in terms of prayer clause (a).

8 Since mechanism of this Court has been used for quashing the proceedings, the Petitioners and Pratham Builders and

Developers Private Limited and Others, the two Complainants, i.e., Mrs. Sheetal Suryawanshi and Mr. Vinay Arhana to pay cost of Rs.10,000/- each to be deposited with the Cancer Aid Society within a period of six weeks from date and receipts to be obtained and filed in the Registry of this Court.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)