

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

CRIMINAL WRIT PETITION NO.2471 OF 2013

Mr. Ramchandra Raghunath Patil and others	..Petitioners
Versus	
State of Maharashtra	..Respondent

Mr. Samir A. Vaidya for the Petitioners.

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

Mr. R. D. Soni i/by Ram & Co., for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.
DATE : 21st SEPTEMBER, 2017**

PC.

1 The above Petition has been filed for quashing the private complaint bearing M. A. No.351 of 2013 and CR No.I-128 of 2013 arising there from registered against the Petitioners on the basis of the order dated 15.05.2013 passed by the Learned JMFC, Nashik for the offences punishable under Sections 420, 465, 467 and 471 r/w Section 34 of the Indian Penal Code, 1908 (for short “IPC”). The cause for filing the private complaint was the dispute in respect of the sale of a property which the Petitioners had agreed to sale to the complainant. It is not necessary to dilate further on facts as the parties have amicably resolved their disputes including the purchasers from the Petitioners.

2 The parties were also before the Civil Court in Special Civil Suit No.483 of 2013, wherein the parties have filed consent terms on 27.04.2017. The suit was also disposed of in terms of the said consent terms. It is required to be noted that the complainant was the Plaintiff in the said Special Civil Suit No.483 of 2013. The said consent terms are annexed to the affidavit filed by the Respondent No.2 i.e. the first informant. The said affidavit has been sworn before this Court today i.e. on 21.09.2017. In the context of the relief sought in the above Writ Petition, paragraphs 2 and 3 of the said affidavit are material and are reproduced herein under :-

“2) I say and submit that as per the consent terms, the defendant no.1 in Special Civil Suit No.483/2013 in the Court of the Civil Judge, Senior Division, Nashik i.e. Petitioner no.1 in the present Petition has paid me Rs.90,00,000/- (Rupees Ninety Lakh Only) towards return of amount of Rs.65,50,000/- paid by me as earnest money and compensation of Rs.24,50,000/- I have received the said amount.

3) I say and submit that, I have agreed and consent to quash and set aside FIR No.128/2-13 registered with Gangapur Police Station, Nashik and Regular Criminal Case No.965/2014 pending in JMFC Court at Nashik.”

3 The complainant Mrs. Heena Nikesh Shah is personally present in Court. She is identified by the Learned Counsel Mr. R. D. Soni. She is also identified by her Pan Card bearing No.APDPS8684Q. When

put in the box and queried she states that consent terms were arrived at between the parties in the civil proceedings i.e. Special Civil Suit No.483 of 2013. She further states that the affidavit tendered today by the Learned Counsel Mr. R. D. Soni is hers' and that she has understood the contents of the said affidavit and she has signed the said affidavit of her own free will and volition. The Petitioner No.1, Mr. Ramchandra Rangnath Patil is also personally present in Court. He is identified by the Learned Counsel Mr. Samir A. Vaidya. He is identified by his Aadhar Card No.4127 6226 5047. When put in the box and queried he states that the matter has been settled between the parties and the consent terms were filed in the Trial Court i.e. the Learned Civil Judge Senior Division. The Petitioner No.2 is his wife.

4 In view of the consent terms filed by the parties in the said Special Civil Suit No.483 of 2013 as also having regard to the affidavit dated 21.09.2017 filed by the first informant Mrs. Heena Nikesh Shah and the statement made by the first informant and the Petitioner No.1 when put in the box, no useful purpose would be served in continuing the proceedings. The judgments in Gian Singh Vs. State of Punjab & Anr.¹ and Narinder Singh & Ors. Vs. State of Punjab & Anr.² would be applicable in the facts of the present case, there is therefore no

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR SCW 2065

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impediment in quashing the CR No. I-128 of 2013. The Petition is accordingly allowed and made absolute in terms of prayer clause (a).

5 The Petitioners to pay costs of Rs.20,000/- to be deposited with the Maharashtra Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]