

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 152 OF 2017**

Ismail Shaikh

..Petitioner

Vs.

Mayuri Surve & Anr

..Respondents

**Mr. Darshan J. Juikar I/b Ms Mrunmai Kulkarni for the Petitioner
Mr. A. R. Khairnar i/b Mr. Aditya Mithe for the Respondent No.1
Mrs. M. M. Deshmukh APP for the Respondent No.2 State**

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 16th MARCH, 2018**

P.C.

1 At the outset, the Learned Counsel appearing for the Respondent No.1 seeks leave to amend to correct the affidavit so as to incorporate the Criminal Case number. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Writ Petition has been filed for quashing of the proceedings being CC No.2006/PS/2012 pending on the file of the Learned Additional Chief Metropolitan Magistrate, 5th Court at Dadar, Mumbai. The said case is arisen out of the FIR which has been registered with the Dadar Police Station being No.164 of 2012 dated 13-6-2012 for the offence punishable under Section 336, 336, 427 of the IPC.

3 The first informant i.e. the Respondent No.1 – Mayuri Surve was injured on account of the debris falling on her whilst she was walking across the site which is being developed by the employer of the Petitioner. It is not necessary to dilate further on the facts in view of the settlement arrived at between the parties. The Respondent No.1 has filed an affidavit dated 29-12-2016 sworn before the Notary Public of Mr. B. R. Dube, Notary Government of India and entered in the noterial register No.71 at Sr. No.42064 dated 29-12-2016. In the context of the relief sought paragraphs 2 and 3 of the said affidavit are material and are reproduced hereinunder:

2. During the pendency of the aforesaid proceedings, I being the Original Complainant on one part and the Petitioner/original Accused, on the other part, have arrived at an amicable settlement. I say that the matter has been settled and no further claims remain to be satisfied by the Petitioner/Accused and henceforth I don't have any claim of any nature whatsoever against the Petitioner.

3. In the light of the above settlement entered into and arrived at between both the parties and subject to the compliance of the same, I being the original Complainant do not wish to proceed with the above case filed against the Petitioner.

The Respondent No.1 has also stated in paragraph 4 that she does not intend to press the allegations against the Petitioner and would withdraw all the allegations in view of the settlement arrived at between the parties.

4 The Respondent No.1 is personally present in Court. She is identified by the Learned Counsel Mr.Khairnar i/b Mr. Aditya Mithe. She is also identified by her Adhar Card No.508603764552. When put in the box and queried she states that a settlement has been arrived at between the parties as a consequence of which she has filed the said affidavit dated 29-12-2016. She further states that she has signed the said affidavit of her own free will and volition.

5 The Petitioner is also personally present in Court. He is identified by the Learned Counsel Mr. Juikar. He is also identified by his Pancard No.ADSPI7572E. When put in the box and queried he states that the settlement has been arrived at between the Respondent No.1 and his employer.

6 Having regard to the affidavit filed by the Respondent No.1 and the statements of the Respondent No.1 as also the Petitioner when put in the box and queried, the same indicate that the parties have settled the matter and therefore no useful purpose would be served in continuing with the proceedings. Having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Writ Petition. No useful purpose would be served in keeping the proceedings

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR scw 2065

pending, the above Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a). The above Writ Petition is accordingly disposed of.

7 The Petitioner through his employer to deposit costs of Rs.10,000/- with the Mumbai Police Welfare Fund in the office of the Commissioner of Police, Mumbai within 6 weeks from date. Receipt to be obtained and filed in the registry.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]