

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2970 OF 2014**

Daanish Elyas Hingora	..Petitioner
Vs.	
The State of Maharashtra & Ors	..Respondents

**WITH
CRIMINAL WRIT PETITION NO. 326 OF 2016**

Amar Karande & Ors	..Petitioners
Vs.	
The State of Maharashtra & Anr	..Respondents

Mr. Subodh Desai i/b Dharam & Co. for the Petitioner in Writ Petition No.2970 of 2014 and for the Respondent No.2 in Writ Petition No.326 of 2016

Mr. M. J. Jamdar for the Respondent No.4 in Writ Petition No.2970 of 2014 and for the Petitioners in Writ Petition No.326 of 2016

Mrs. P. P.Shinde APP for the Respondent State

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 26th JULY, 2018**

P.C.

1 In so far as Writ Petition No.2970 of 2014 is concerned, leave to amend is granted so as to incorporate case number in prayer clause (a) of the said Petition. Amendment to be carried out forthwith.

2 The above Petitions have been filed for quashing of the proceedings being Case No.584/PW/2014 pending on the file of the Learned Metropolitan Magistrate, 25th Court, Mazgaon, Mumbai. The said proceedings

have arisen out of FIR No.3 of 2014 for the offences punishable under Section 3(1)(x) of the SC and ST Act (subject matter of Writ Petition No.2970 of 2014) and proceedings being Case No.950/PW/2014 arising out of FIR No.278 of 2013 for the offences punishable under Sections 143, 147, 148, 149, 324, 392 of the IPC, 37(1) and 135 of the Maharashtra Police Act, (subject matter of Writ Petition No.326 of 2016).

3 The said FIRs have their genesis in the redevelopment of the property known as Chunilal Mehta Compound under regulation 33(7) of the Development Control Regulations 1991. The first informants and the injured are the tenants of the said property and therefore the stakeholders in so far as the said redevelopment scheme is concerned. It is not necessary to dilate further on facts as the parties have amicably resolved their dispute. The first informant in so far as the proceedings being Case No.584/PW/2014 are concerned who is the Respondent No.2 Shravan Ankush Chabukswar, has filed affidavit dated 22-3-2016 affirmed in this court on the said day. The said affidavit refers to the Consent Terms arrived at between the parties in Writ Petition No.1173 of 2014 which was filed on the Original Side of this Court. In the context of the relief sought in the above Writ Petitions, paragraph 4 of the said affidavit is material and is reproduced hereunder:

4. I say that as the dispute concerning the redevelopment of said property is amicably resolved I

have no objection if the above Criminal Writ Petition No.2970 of 2014 is allowed and FIR dated 13.01.2014 bearing No.3 of 2014 registered with Byculla Police Station, Mumbai (Exh. A to the Petition) and the charge sheet filed in furtherance thereof bearing Case No.584/PW/2014 pending before the Hon'ble Metropolitan Magistrate, 25th Court, Mazgaon, Mumbai (Exh. E to the Petition) are quashed and set aside.

4 At this stage it would be relevant to refer to the Consent Terms evidencing the settlement between the parties and which were filed in the said Writ Petition No.1173 of 2014, paragraphs 7, 13, 30 and 31 are material and are reproduced hereinunder:

7. The parties hereto i.e. Petitioners and Respondent No.1 confirm that their disputes, differences, complaints, grievances raised / addressed by them before all forums have been resolved forever amicably in / with these consent terms.

13. It is agreed between the parties that both the parties will unconditionally withdraw all their proceedings, complaints instituted in Court of law as well as with various forums and authorities including Mumbai Police, Commission for Schedule Caset and Schedule Tribes etc.

30. The Petitioners as well as Tenants / Occupants listed in annexure - "1" hereto agree and undertake to unconditionally withdraw all their cases, proceedings, complaints filed in the Court as set out hereinabove and various other forums within 15 days from the date of execution of these consent terms.

31. The Respondent No.1 agrees and undertakes to unconditionally withdraw all their cases, proceedings, complaints, if any filed in the Court and / or any other forums within 15 days from the date of execution of these consent terms.

5 In so far as Writ Petition No.326 of 2016 is concerned, the first informant i.e. the Respondent No.2 therein Mr. Akash Gaikwad has filed affidavit dated 21-3-2016 and affirmed before P. M. Khankar, Notary Greater Bombay, 8/6 Mahavir Chambers Bombay 400 001, bearing notarial registration No.184/2016. Paragraph 4 of the said affidavit is material and is reproduced hereinunder:

4. I say that as the dispute concerning the redevelopment of said property is amicably resolved I have no objection if the above Criminal Writ Petition No.326 of 2016 is allowed and if FIR No.278 of 2013 lodged with Byculla Police Station, Dist. Mumbai and thereafter Chargesheet bearing Case No.950/PW/2014 filed in the Court of the Ld. Metropolitan Magistrate, 25th Court, Mazgaon, Mumbai (Exh. D hereto) are quashed and set aside.

6 The injured who are 8 in number and whose names appear in the FIR have also filed their affidavits which are identical in nature, reference to the affidavit of one Mr. Raju Mahadev More is therefore made for the sake of convenience. Paragraph 4 of his affidavit is material and is reproduced hereinunder for the sake of ready reference

4. I say that as the dispute concerning the redevelopment of said property is amicably resolved I have no objection if the above Criminal Writ Petition No.326 of 2016 is allowed and if FIR No.278 of 2013 lodged with Byculla Police Station, Dist. Mumbai and thereafter Chargesheet bearing Case No.950/PW/2014

filed in the Court of Ld. Metropolitan Magistrate, 25th Court, Mazgaon, Mumbai (Exh. D hereto) are quashed and set aside.

7 The first informant Mr. Shravan Chabukswar in Writ Petition No.2970 of 2014 is personally present in Court. He is identified by the Learned Counsel Mr. Desai i/b Mr. Sharma. He is also identified by his election card bearing No.MT/05/027/102823. When put in the box and queried he states that he has been read over and explained the contents of his affidavit dated 22-3-2016 which he has understood. He further states that he has filed the said affidavit in view of the settlement between the parties. He further states that in view of the settlement between the parties he is not desirous of proceeding with the case in question. He lastly states that he has filed the said affidavit of his own free will and volition.

8 The first informant Mr. Akash Gaikwad in Writ Petition No.326 of 2016 is personally present in Court. He is identified by the Learned Counsel Mr. Desai i/b Mr. Sharma. He is also identified by his Adhar Card bearing No.219174357647. When put in the box and queried he states that he has been read over and explained the contents of his affidavit dated 21-3-2016 and that he has understood the said contents. He further states that he has filed the said affidavit in view of the settlement between the parties. He lastly states that he has filed the said affidavit of his own free will and volition.

9 The Petitioner in Writ Petition No.2970 of 2014 Mr. Daanish Elyas Hingora is personally present in Court. He is identified by the Learned Counsel Mr. Desai i/b Mr. Sharma. He is also identified by his Driving Licence bearing No.MH02-20080108880 issued on 3-6-2008 and valid till 2-6-2028. When put in the box and queried he accepts the factum of the settlement between the parties.

10 The Petitioner No.1 in Writ Petition No.326 of 2016 Mr. Amar Karande is personally present in Court. He is identified by the Learned Counsel Mr. Jamdar. He is also identified by his Election Card bearing No.XIC4138228. When put in the box and queried he accepts the factum of the settlement between the parties.

It is not necessary to record the statements of the other Petitioners in view of the statement recorded of the Petitioner No.1.

11 The injured Mr. Raju M More is also personally present in Court. He is identified by the Learned Counsel Mr. Desai. He is also identified by his Adhar Card bearing No.878667145478. When put in the box and queried he accepts the filing of the affidavit dated 25-7-2018. He further states that he is not desirous of proceeding with the case in question in view of the settlement between the parties.

12 The other injured are also personally present in Court. They are identified by the Learned Counsel Mr. Desai i/b Mr. Sharma. The said injured i.e. Mr. Suhas P. Kadam identified by his Adhar Card bearing No.760397273552, Mr. Niraj Kadam identified by his Adhar Card bearing No.680453941442, Mr. Prashant Jadhav identified by his Adhar Card bearing No.534573235445, Mr. Nikhil Tambe identified by his Election Card bearing No.XIC4463915, Mr. H. B. Pawar identified by his Identity Card of Mumbai Port Trust bearing MAR No.E/4119/W/5083, Mr. Vishwas Kadam identified by his Adhar Card bearing No. 931908272393 and Mrs. Anita Sarvade identified by his Adhar Card bearing No.787124996873. They all state that they do not desire to proceed with the case in question in view of the settlement between the parties.

13 Having regard to the Consent Terms filed in Writ Petition No.1173 of 2014, affidavits filed by the first informants i.e. Mr. Shravan Chabukswar and Mr. Akash Gaikwad as also the affidavit filed by the 8 injured persons referred to hereinabove as also the statements made by the first informants and the injured and the statements made by the Petitioner Mr. Daanish Elyas Hingora in Writ Petition No.2970 of 2014 and the Petitioner No.1 Mr. Amar Karande in Writ Petition No.326 of 2016, as also having regard to the fact that the settlement between the parties is documented by way of the Consent Terms, the aforesaid facts therefore disclose the reasons why the first

informants in both the CRs are not desirous of proceeding with the cases in question. In the said context a useful reference could be made to the judgments of the Apex Court in **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petitions are required to be allowed and are accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petitions are accordingly disposed of.

14 The Petitioner in Writ Petition No.2970 of 2014 to deposit costs of Rs.50,000/- with the National Association of Blind, Worli, Mumbai within 6 weeks from date. Receipt to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

Meera
Mahesh
Jadhav

Digitally
signed by
Meera
Mahesh
Jadhav
Date:
2018.07.30
16:47:13
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¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065