

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

CRIMINAL WRIT PETITION NO.457 OF 2018

**Raju Nathulal Mahey : Petitioner.
Versus
State of Maharashtra and anr. : Respondents.**

**ALONG WITH
CRIMINAL WRIT PETITION NO.458 OF 2018**

**Pratik Vinod Shah and ors. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.**

Mr. Kapil P Shah for the Petitioner in Writ Petition No.457 of 2018 and for the Respondent No.2 in Writ Petition No.458 of 2018.

Ms. Varsha P Mishra i/by Mr. Keyur Mehta for the Petitioners in Writ Petition No.458 of 2018 and for the Respondent No.2 in Writ Petition No.457 of 2018.

Mrs. P P Shinde APP for the Respondent/State in Writ Petition No.457 of 2018.

Mr. Ajay Patil, APP for the Respondent/State in Writ Petition No.458 of 2018.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 20th MARCH 2018**

P.C.

1 The above Writ Petitions have been filed for quashing of the proceedings being Criminal Case No.1588/PW/2016 pending before the learned Metropolitan Magistrate 17th Court, Borivali, Mumbai (subject matter of Writ Petition No.457 of 2018) and Criminal Case No.2140/PW/2016

pending before the learned Metropolitan Magistrate 17th Court, Borivali, Mumbai (subject matter of Writ Petition No.458 of 2018) out of the FIR No.90 of 2016 dated 06/03/2016 for the offences punishable under Section 324 and 506 of the Indian Penal Code and the FIR No.91 of 2016 also dated 06/03/2018 for the offences punishable under Sections 324, 323, 504 and 34 of the Indian Penal Code respectively.

2 The said FIRs are cross FIRs registered by the parties against each other. The parties are the members of the same society and the cause of filing of the said FIRs is on account of the incident which took place at the gate of the society on a particular day. It is not necessary to dilate further on facts in view of the fact that the parties have arrived at a settlement.

3 In the context of the relief sought in Writ Petition No.457 of 2018 paragraphs 6 and 8 of the said Writ Petition No.457 of 2018 are material and are reproduced herein under for the sake of ready reference :-

“6 The Petitioner states that Petitioner and Respondent No.2, since staying in same society and have to see each other faces daily, settled their issues amicably and have decided to withdraw the complaint against each other, hence this Writ Petition.

8 The Petitioner state that as the Hon'ble Trial Court have taken the cognizance of this offence u/s 324 & 506 of IPC and since the matter is settled and issues & difference are sorted between Petitioner and Respondent

No.2, this is fit and proper case to exercise the jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India r/w Sec. 482 of the Criminal Procedure Code to quash the FIR and Charge Sheet filed before the Hon'ble Metropolitan Magistrate, 17th Borivali Court, in order to prevent the abuse of process and to secure the ends of justice.”

4 In the context of the relief sought in Writ Petition No.458 of 2018 paragraph 9 of the said Writ Petition No.458 of 2018 is material and is reproduced herein under for the sake of ready reference :-

“9 The Petitioners states that the Petitioners and Respondent No.2, since staying in same society and have to see each other faces daily, settled their issues amicably and have decided to withdraw the complaint against each other, hence this Writ Petition.”

5 The first informants i.e. Pratik Vinod Shah and Raju Nathulal Mahey have filed their affidavits which we are informed by the learned counsel for the Petitioners in Writ Petition No.458 of 2018 Shri Kapil Shah have been affirmed in the department and filed in the registry today. In the said affidavits in paragraph 10 the affiants have prayed that the concerned Writ Petitions be allowed in terms of the prayer that is prayed in the Writ Petitions. The said paragraph, which is identical in both the affidavits, is therefore reproduced herein under for the sake of ready reference:-

“I therefore most respectfully and humbly prays to this

Hon'ble Court be pleased to :

- (a) allow the Writ petition in terms of the prayers prayed and
- (b) for any such order and further orders or relief as Hon'ble Court may deem appropriate, just proper and reasonable.”

6 The Respondent No.2 in Writ Petition No.457 of 2018 Shri Pratik Vinod Shah is personally present in Court. He is identified by the learned counsel Ms. Varsha Mishra h/f Shri Keyur Mehta of Perfect Law Solutions. He is also identified by his Aadhar Card bearing No.5433 5302 6982. When put in the box and queried he states that he and the Respondent No.2 in the Companion Writ Petition No.458 of 2018 Shri Raju Mahey have compromised the matter as result of which he has filed the affidavit in the above Writ Petition No.457 of 2018 wherein he has given his no objection for quashing of the proceedings arising out of the FIR lodged by him. He further states that the contents of the affidavit filed on his behalf are acceptable to him and that he has signed the said affidavit of his own free will and volition.

7 The Respondent No.2 in Writ Petition No.458 of 2018 Shri Raju Mahey is also personally present in Court. He is identified by the learned counsel Shri Kapil shah. He is also identified by his Driving License bearing No. MH-04/2008-44/26 issued on 01/10/2003 and valid up to 30/09/2022. When put in the box and queried, he reiterated what has been stated by the Respondent No.2 in the companion Writ Petition No.457 of 2018. He further

states that the contents of the affidavit filed on his behalf are acceptable to him and that he has signed the said affidavit of his own free will and volition.

8 Having regard to the averments made in the above Writ Petitions which we have referred to in the earlier part of this order as also having regard to the affidavits of each of the first informants and having regard to the statements made by the first informants when put in the box and queried, they lead to an unequivocal conclusion that the parties have compromised the matter as result of which they do not desire to proceed with the cross cases which have arisen out of the FIRs lodged by them.

9 Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s State of Punjab & Anr reported in (2012) 10 SCC 303 and Narinder Singh & ors v/s. State of Punjab & Anr reported in 2014 AIR SCW 2065, no useful purpose would be served in keeping the proceedings pending.

10 The above Criminal Writ Petitions are required to be allowed and are accordingly allowed and made absolute in terms of prayer clause (c). The above Criminal Writ Petitions are accordingly disposed of.

11 In the facts and circumstances of the case, the Petitioners in Writ Petition No.458 of 2018 to deposit costs of Rs.10,000/- with the State Legal

Aid Fund within six weeks from date. The Petitioner in Writ Petition No.457 of 2018 to deposit costs of Rs.5,000/- with the State Legal Aid Fund within the same period of six weeks from date. Receipts to be obtained and filed in the Registry.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]