

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 488 OF 2018**

Mr. Sandesh Sony Gawalkar & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. S. G. Rajput for the Petitioners

Mrs. A. S. Pai Addl PP for the Respondent No.1 State

Mr. Jitendra B Mishra for the Respondent No.2

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 28th FEBRUARY, 2018

P.C.

1 At the outset leave to amend is granted so as to correct prayer clause (a) excluding the bracketed portion. Amendment to be carried out forthwith.

2 The above Petition has been filed for quashing of the charge sheet being C. C. No.811/PW/2012 pending before the Learned Additional Chief Metropolitan Magistrate's 37th Court, Esplanade Mumbai for the offences punishable under Section 143, 147, 149, 323, 341, 452, 506(2) of IPC, being C. R. No.75 of 2012 which has been investigated by the DCB CID Unit-5, Mumbai. The dispute it appears is between the Respondent No.2 who is the land lady and the Petitioners and the other Respondents who are the tenants of the Respondent No.2. It seems that the parties have amicably resolved their dispute as a result of which the Respondent No.2 has filed an affidavit dated

17-2-2018 which is affirmed in this Court. In the context of the relief sought in the above Writ Petition, paragraph 2 of the said affidavit is material and is reproduced hereinunder:

2. I say that with intervention of respected persons of the society, the dispute between me and the Petitioners are amicably resolved and I have agreed to withdraw complaint against the Petitioners above named, in the above case. I say that I have agreed with my free will and consent to withdraw complaint against any of the Petitioners above named. I have no objection if this Hon'ble Court quash the Criminal Complaint No.811/PW/2012 pending before the Learned Metropolitan Magistrates 37th Court, Esplanade, Mumbai against the Petitioners herein for the alleged offence under Sections 143, 147, 149, 323, 341, 452, 506(2) of the Indian Penal Code. I am filing this affidavit out of my free will and consent and without any undue pressure, fraud and coercion.

3 Hence the averments made in the said paragraph 2 disclose that the first informant i.e. the Respondent No.2 has accepted the fact that a compromise has been arrived at between the parties. The Respondent No.2 is also personally present in Court. She is identified by the Learned Counsel Mr. J. B. Mishra. She is also identified by her Pan Card No.BAUPP6998P. When put in the box and queried, she states that she has been read over and explained the contents of her affidavit dated 17-2-2018 and that the said contents are acceptable to her. She further states that she does not want to proceed with the case in question in view of the compromise arrived at between the parties.

4 The Petitioner No.1 Sandesh Sonu Gawalkar is also personally present in Court. He is identified by the Learned Counsel Mr. Rajput. He is also identified by his Adhar Card No.976609105056. When put in the box and queried he states that in view of the settlement arrived at between the parties, the Respondent No.2 does not desire to proceed with the proceedings in question. The other Petitioners are also present in Court, however, in view of the statement made by the Petitioner No.1, it is not necessary to record the statements of the other Petitioners in respect of the compromise.

5 In view of the affidavit of the Respondent No.2 and the statement made by her in the box as also the statement made by the Petitioner No.1 in the box the same unequivocally indicate that the parties have compromise the matter. 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 Criminal Writ Petition. No useful purpose would be served in keeping the proceedings pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065