

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 542 OF 2018**

**Mr. Milind Gautam Shinde & Ors
Vs.
The State of Maharashtra & Ors**

..Petitioners

..Respondents

**Mr. Ashok Mundargi Senior Advocate a/w Mr./ Satyam Nimbalkar i/b Mr.
Rohan Hogle Advocates for the Petitioners
Mr. Vikas Shivarkar i/b Mr. Pravin M Dabade for the Respondent No.2
Mrs. P. P. Shinde APP for the Respondent State**

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 27th FEBRUARY, 2018**

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being C. R. NO. 222 of 2016 registered with the Talegaon Dabhade Police Station, for offences punishable under Sections 193, 199, 120(b), 420, 423, 406, 465, 468, 471, 504, 506 and 34 of the IPC.

2 The first informant i.e. the Respondent No.2 herein who is the paternal aunt of the Petitioner No.1. Petitioner Nos.2 and 3 are the purchasers from the Petitioner No.1. The gravamen of the allegations in the said FIR are revolving around the sale of the share of the Respondent No.2 in the property in question to the Petitioner Nos.2 to 4.

3 The first informant i.e. the Respondent No.2 has filed her affidavit

which is at page 149 of the writ paper book. The said affidavit is affirmed in this Court on 30-1-2018. In the context of the present Petition, paragraphs 13 to 18 are material and are reproduced hereinunder:

13. I further say that the elder persons from both the sides have intervened. The disputes between me and the Petitioners are resolved. Thus all the misunderstanding between us is cleared and the settlement has taken place between us.

14. I further say that the allegations about personation and cheating, I am withdrawing those allegations.

15. As the dispute is settled, both the parties are going to resolve all other proceedings also.

16. I further say that, I have agreed to accept the amount of Rs.18,00,000/- (Rupees Eighteen Lakhs Only) being given to her in view of the settlement. There is no complaint or dissatisfaction about the same. I will not be in a position to persuade her cause of enhancement of the compensation from the MIDC. Therefore the Petitioner's help was sought and the transaction were entered into with the Petitioners.

17. I further say that the Petitioners and me alongwith the elderly members of both the parties have settled the matter amicably. The Petitioners and me will not create the litigations against each other.

18. I further say that, the complaint itself was generated from sheer misunderstanding. That no purpose will be served by keeping the FIR vide C. R. No.222 of 2016 pending as it is. That no result can be achieved by continuing litigation on present set of facts. No good purpose will be served by continuing with litigation as matter is already settled between the parties.

4 The son of the Respondent No.2 i.e. Shantaram Pandurang Kadam

who is 42 years of age has also filed an affidavit, which is also affirmed in this Court on 27-2-2018. Paragraphs 17 and 18 of the said affidavit are material in the context of the relief sought in the above Petition, the same are reproduced hereinunder:

17 I further say that, the Petitioners and the Respondent No.2 alongwith the elderly members of both the parties have settled the matter amicably. The Petitioners and the Respondent No.2 will not create the litigations against each other.

18 I further say that the complaint itself was generated from sheer misunderstanding. That no purpose will be served by keeping the FIR vide C. R. No.0222 of 2016 pending as it is. That no result can be achieved by continuing litigation on present set of facts. No good purpose will be served by continuing with litigation as matter is already settled between the parties.

5 The Respondent No.2 Smt.Zipabai @ Meerabai Kadam is personally present in Court. She is identified by the Learned Counsel Mr. Shivarkar. She is also identified by her Adhar Card No.626315524842. She is also identified by her son Shantaram Pandurang Kadam. She states that she has been read over and explained the affidavit which is filed in this Court and she has accordingly understood the contents of her affidavit. The son of the Respondent No.2 Mr. Shantaram Kadam is also personally present in Court. He is identified by the Learned Counsel Mr. Shivarkar. He is also identified by his Adhar Card No.418780945614. When put in the box and queried he states

that the settlement arrived at between the parties is acceptable to him and his mother.

6 The Learned Senior Counsel Mr. Mundargi hands over two Demand Drafts of Rs.9 lacs each drawn in the name of Smt.Zipabai @ Meerabai Kadam, Andhra Bank, Talegaon Branch, Talegaon 410506. The said Demand Drafts are in full and final settlement of the claim of the Respondent No.2. The Learned Counsel appearing for the Respondent No.2 accepts the said Demand Drafts handed over by the Learned Senior Counsel Mr. Mundargi, and states that the said Demand Draft would handed over to Smt.Zipabai @ Meerabai Kadam.

7 The affidavits filed by Smt.Zipabai @ Meerabai Kadam and her son Mr. Shantaram Kadam and also having regard to the statement made by Smt.Zipabai @ Meerabai Kadam and her son Shantaram, the same unequivocally indicate that the parties have settled their dispute. As indicated above the dispute is between the Petitioner No.1 who is nephew of the Respondent No.2 i.e. Smt.Zipabai @ Meerabai Kadam, the said dispute being in respect of the share of Smt.Zipabai @ Meerabai Kadam in the property in question. The Respondent No.2 is being compensated by the payment of Rs.18 lakhs. 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**

1 (2012) 10 Supreme Court Cases 303

of Punjab & Anr¹, 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 (b). The above Criminal Writ Petition is accordingly disposed of.

8 In view of the fact that the machinery of this Court has been used to settle the dispute, it would be just and proper that the Petitioners to deposit costs of Rs.25,000/- with the Maharashtra 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.

9 The Petitioner No.1 who is incarcerated would have to be released forthwith, if not required in any other offence.

10 The photocopies of the two Demand Drafts are taken on record and marked as “X” for identification.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ 2014 AIR scw 2065