

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 227 OF 2018**

Majhar Abdul Rajjak Shaikh

..Applicant

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. S. R. Gaud for the Applicant

Mr. Tejamnul Husain for the Respondent No.2

Mr. R. M. Pethe APP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 4th APRIL, 2018**

PC.

1 At the outset the Learned Counsel for the Applicant seeks leave to amend so as to correct the case number in prayer clause (b). Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the proceeding being STC No.29 of 2015 pending on the file of the Learned JMFC, Vadgaon Maval District Pune. The said STC No.29 of 2015 has arisen out of the FIR being C. R. No.42 of 2014 for the offences punishable under Section 336, 427 and 34 of the IPC. The said FIR has arisen out of the dispute between the Applicant and the Respondent No.2 which had taken place on account of the alleged damage to the structure of the Respondent No.2 by the

Petitioner during the course of carrying out work for his client in the adjoining property.

3 Be that as it may, the first informant i.e. the Respondent No.2 Mr. Maruti Kuchekar has filed an affidavit bearing today's date i.e. 4-4-2018 and sworn and affirmed in this Court today. In the context of the relief sought paragraph 6 of the said affidavit is material and is reproduced hereinunder:

6. I say that I am giving my free consent for quashing of above referred criminal proceeding with my conscious mind, free will and without any sort of pressure, coercion, fraud applied on me by any person(s). Furthermore I am also aware about the effect of the present affidavit-in-reply more specifically the criminal proceeding bearing its STC No.29 of 2015 pending before the learned Counsel appearing for the JMFC Vadgaon, Maval Court District Pune, may get quash and the above named Applicant may get discharge from such criminal proceeding for which I am recording my free consent.

4 The Respondent No.2 Mr. Maruti Kuchekar is personally present in Court. He is identified by the Learned Counsel Mr. Tejamnul Husain. He is also identified by his Adhar Card bearing No.670001390959. When put in the box and queried the Respondent No.2 states that he has been read over the affidavit dated 4-4-2018 which is tendered by the Learned Counsel Mr. Tejamnu Husain, today. He further states that he has understood the contents of the said affidavit and that they are acceptable to him and that he has signed

the said affidavit of his own free will and volition. He further states that he does not want to proceed with the case in question in view of the settlement arrived at between him and the Applicant.

5 The Applicant Mr. Majhar Abdul Razak Shaikh is also personally present in Court. He is identified by the Learned Counsel Mr. Gaud. He is also identified by his Adhar Card bearing No.985742878372. When put in the box and queried he accepts the factum of the settlement between the first informant i.e. the Respondent No.2 herein and him, as a consequence of which the Respondent No.2 does not desire to proceed with the proceeding.

6 Hence the affidavit filed by the Respondent No.2 as also the statements made by the Petitioner and the Respondent No.2 when put in the box and queried unequivocally indicate that the parties have settled their dispute as a result of which the first informant i.e. the Respondent No.2 does not desire to proceed with the FIR in question. 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 Application. No useful purpose would be served in keeping the proceedings pending, the above Criminal Application is accordingly allowed and made absolute in terms of prayer clause

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR scw 2065

(b). The above Criminal Application is accordingly disposed of.

7 The Applicant to deposit costs of Rs.10,000/- with the State Legal Aid Fund, within 6 weeks from date. Receipt to be obtained and filed in the registry.

8 The Learned Counsel for the Respondent No.2 undertakes to file his vakalatnama during the course of the day. Undertaking accepted.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]