

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

CCRIMINAL WRIT PETITION NO.970 OF 2018

Atul Shailendrasingh Pardeshi and anr. : Petitioners.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. S B Thorat for the Petitioners.
Mrs. M H Mhatre, APP for the Respondent/State.
Mr. S D Rupwate for the Respondent No.3.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE : 02nd MAY 2018

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being C.R. No.13 of 2018 registered with the Junnar Police Station, Junnar, Dist. Pune for the offences punishable under Sections 341, 323, 504, 506 and 34 of the Indian Penal Code along with Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevision of Atrocities) Act, 1989. The said FIR is a fall out of the business transaction between the first informant i.e. the Respondent No.3 herein and the Petitioners herein in respect of a piece of land.

2 It is not necessary to dilate further on facts. The first informant i.e. the Respondent No.3 herein has filed an affidavit dated 15/03/2018. The said affidavit is affirmed before Mrs. Aliya N Pathan, Notary, Government of India on the same day i.e. 15/03/2018 and bears notarial registration No.29178 dated 15/03/2018. In the context of the relief sought in the above

Writ Petition, paragraphs 5 and 8 of the said affidavit are material and are reproduced herein under :-

“5) I therefore hereby give my consent and no objection out of free will and volition for quashing of the FIR bearing No.13 of 2018 registered against the Petitioners/original Accused No.1 and 2 at Junnar Police Station, for the offences punishable under sections 341, 323, 326, 504, 506 and 34 of the Indian Penal Code, 1860 and under sections 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

8) Therefore, in the facts and circumstances of the present case, the said F.I.R. Bearing C.R.No.13/2018 against the Petitioners/Original Accused No.1 and 2 at Junnar Police Station, for the offences punishable under sections 341, 323, 326, 504, 506 and 34 of the Indian Penal Code, 1860 and under sections 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, may kindly be quashed.”

The said paragraphs are preceded by the Respondent No.3 stating that they have arrived at a mutual consensus to amicably bring to an end of their grievances and cordially settled the matter which they have done so with the intervention of the friends, relatives and the reputable persons.

3 The Respondent No.3 herein i.e. the first informant – Avin Vishnu Phulpagar is personally present in Court. He is identified by his learned counsel Shri S D Rupwate. He is also identified by his Aadhar Card bearing No.979514385268. When put in the box and queried, he states that he has

read and understood the contents of the affidavit dated 15/03/2018 which is tendered across the Bar by the learned counsel Shri S D Rupwate. He further states that the contents of the said affidavit have also been explained to him by the learned counsel Shri S D Rupwate. He states that in view of the settlement arrived at between the parties, he does not desire to proceed with the FIR in question.

4 The Petitioner No.1 – Atul Shailendrasingh Pardeshi is personally present in Court. He is identified by his learned counsel Shri S B Thorat. He is also identified by his Aadhar Card bearing No.741788881159. When put in the box and queried, he confirms the fact that the settlement has been arrived at between the parties as a result of which the Respondent No.3 does not desire to proceed with the FIR in question.

5 The Petitioner No.2 – Dipesh Shailendrasingh Pardeshi is personally present in Court. He is identified by his learned counsel Shri S B Thorat. He is also identified by his Aadhar Card bearing No.951230994069. When put in the box and queried, he states likewise.

6 Having regard to the affidavit filed by the Respondent No.3 as also the statements made by the Respondent No.3 and the Petitioner Nos.1 and 2 when put in the box and queried unequivocally indicate that the parties have

settled their dispute as result of which the Respondent No.3 i.e. the first informant does not desire to proceed with the FIR in question.

7 In view of the fact that one of the offences alleged against the Petitioners is one under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled tribes (Prevision of Atrocities) Act, 1989, we considered the matter from the aspect of whether the quashing of the FIR could be by way of mutual consent of the parties. Our attention was drawn to a Division Bench judgment of this Court reported in (2014) 1 BomCR (Cri) 1 in the matter of Sitaram & Another v/s. The District Superintendent of Police & others. In an identical fact situation wherein the parties had arrived at a settlement and the first informant had filed an affidavit giving his consent for quashing of the FIR which had been registered for one of the offences punishable under the Scheduled Castes and Scheduled Tribes (Prevision of Atrocities) Act, 1989, the Division Bench had deemed it a fit to quash the FIR in the said case by exercising powers under Section 482 of the Criminal Procedure Code. Hence the quashing of the FIR by the mutual consent of the parties is fortified by the said judgment of the Division Bench of this Court in Sitaram & another (supra).

8 Having regard to the dictums 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. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

9 In the facts and circumstances of the present case where the machinery of this Court has been utilized for settling the dispute, the Petitioners 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.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]