

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1181 OF 2018

Balvantbhai Jerambhai Sonani & Ors.] ... Petitioners

Versus

The State of Maharashtra & Anr.] ... Respondents

Mr. Vinit Jain a/w Mr. Arun H. Mehta & Mr. Sanket Shah i/b Akshar
Laws for Petitioners.

Mr. Deepak Thakare, GP a/w Mr. R. M. Pethe, APP, for State –
Respondent No.1.

Mr. Sunil Chavan i/b M/s. LJ Law for Respondent No.2.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE :- 09 MARCH, 2018

P. C. :-

1. The above Petition has been filed for quashing of the
M.E.C.R.No.1 of 2017 registered with the BKC Police Station,
Mumbai, for the offence punishable under Section 420 read with 34 of
the IPC. The said FIR is a fallout of the business transactions between
the parties. The parties have amicably resolved their dispute as a
result of which the complainant i.e. the Respondent No.2 herein
Mr.Bharat Kanhaiyalal Shah has filed an Affidavit dated 07/03/2018

sworn before Mr. Mangesh G. Bansod, Notary, Government of India, having his office at 10/D, Bahubali Bldg., 17H, Kawasji Patel Street, Fort, Mumbai – 400 001 and entered in the Notarial Register at Sr.No.177/91 dated 07/03/2018. In the context of the relief sought in the above Petition, paragraph 3 of the said Affidavit is material and is reproduced hereinunder :

“3. *“In view of the aforesaid, I agree to withdraw and/or not to pursue the complaint being MECR No.1 of 2017 and agree to co-operate in any application to be made by the accused named therein in the said complaint and/or C.R. for discharge and/or quashing of the complaint in all possible manner viz., to remain present during the hearing of the aforesaid application, make statement of withdrawal of the complaint and give evidence in support thereof.”*

The original of the said Affidavit is also tendered across the bar by the learned Counsel for the Respondent No.2. The same is also taken on record and marked '**X**' for identification.

2. The Respondent No.2 Mr.Bharat Kanhaiyalal Shah is personally present in Court. He is identified by the learned Counsel Mr. Sunil Chavan. He is also identified by his PAN Card bearing No.AOWPS8142R. When put in the box and queried, he accepts the

factum of the dispute between the parties being settled. He further states that he has read the Affidavit copy of which is annexed to the above Petition as Exh.'B' and that the contents are acceptable to him and that he has signed the said Affidavit of his own free will and volition. The Petitioner No.4 Mr. Bhavesh Balvantbhai Sonani is also personally present in Court. He accepts the factum of the settlement arrived at between the parties as a consequence of which the first informant i.e. the Respondent No.2 herein, has filed the Affidavit stating he has no objection for quashing of the FIR. He is identified by the learned Counsel Mr. Vinit Jain and is also identified by his Aadhar Card bearing No.5285 3633 0791.

3. In the light of the Affidavit filed by the Respondent No.2 as also the statements made by the Respondent No.2 and the Petitioner No.4 when put in the box and queried, same lead to a conclusion that the parties have amicably resolved their dispute as a result of which the Respondent No.2 does not desire to proceed with the FIR lodged by him.

4. Having regard to the Judgments of the Apex Court in the cases of Gian Singh Vs. State of Punjab & Anr. reported in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Writ Petition. No useful purpose would be served in keeping the Writ Petition pending. The Writ Petition is allowed and made absolute in terms of prayer clause (b).

5. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Petitioners to deposit costs of Rs.50,000/- with the National Association of Blind, Worli, within six weeks from date. Receipt to be obtained and filed in the Registry. The Respondent No.2 to also deposit costs of Rs.25,000/- with the National Association of Blind, Worli, within six weeks from date. Receipts to be obtained and filed in the Registry.

6. Parties to act on an authenticated copy of this order.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)