

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 1410 of 2016**

(modified as per order dated 1st November 2018)

Vijay Kisanrao Shinde

.. Petitioner

Versus

The State of Maharashtra & Anr

.. Respondents

...

Mr. Deepak V. Dere for the petitioner.

Mrs.A.S.Pai, APP for the State.

Mr.S.Y. Thorat for respondent no.2.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 4th OCTOBER, 2018

P.C:-

1 Learned counsel for the petitioner, at the outset, seeks leave to amend the petition so as to give particulars of the Criminal Case. Leave granted. Necessary amendment shall be carried out forthwith.

2 Heard learned counsel for the petitioner and learned counsel for respondent no.2.

3 The petitioner has approached this Court for invoking jurisdiction under Article 226 of the Constitution of India to quash the proceedings of the Criminal Case bearing No.6900766/PW/2017 pending on the file of learned Metropolitan Magistrate, 69th Court at Mazgaon (Sewree), Mumbai. The said case arises out of the registration of the FIR bearing No.477 of 2015 with Nagpada Police Station, Mumbai at the instance of respondent no.2 for offences punishable under Sections 465, 467, 468, 471, 420 of the Indian Penal Code.

4 Pending trial as well as pending this petition, parties have settled their dispute amicably. Petitioner and respondent no.2 are real brothers. In view of the understanding, they have filed for quashing of the subject FIR. Respondent no.2 has accordingly affidavit dated 5th April 2016. In the said affidavit, he has given no objection to quash the said proceedings. The petitioner as well as respondent no.2 are personally present before the Court.

5 The petitioner has also filed additional affidavit dated 3rd October 2018. In paragraph no.5 thereof, he has made an averment that respondent no.2 is in exclusive use and occupation of the suit premises i.e. Room No.9, Ground Floor, Subhadra Mansion, Gopi Building, Walkeshwar Road, Malabar Hill, Mumbai-400006. Respondent no.2 having received rent receipts standing on his name, he has undertaken that he will not disturb possession in the said premises of the respondent no.2. He also states that he is giving no objection for quashing the said FIR out of free will and without there being any pressure or coercion.

6 The Hon'ble Apex Court in the case of ***Narinder Singh vs. State of Punjab***¹ has observed thus :-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceedings having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its

1 [2014 AIRSCW 2065]

opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute between buried the hatchet, and since the complainant has been adequately compensated by the petitioner and has also received the entire compensation, we are of the opinion that the FIR is liable to be quashed.

7 In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh** (supra), we find that no purpose would be served by keeping the criminal proceedings pending

except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed.

8 Accordingly, the writ petition is allowed in terms of prayer clause (b).

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)