

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1633 OF 2018**

Amit Baliram Nandi & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Samsher Garud i/b Jaykar & Partners for the Petitioners

Mr. Santosh S. Avhad for the Respondent No.2

Mrs. A. S. Pai Addl PP for the Respondent State

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ**

DATE : 28th JUNE, 2018

P.C.

1 The above Petition has been filed for quashing and setting aside of the proceeding being C. C. No.1438/2017 pending on the file of the Learned JMFC, Khalapur. The said proceeding has arisen out of FIR being C. R. No.203 of 2017 for the offences punishable under Sections 338 and 34 of the Indian Penal Code, 1860. The said FIR is a result of the incident which took place on 29-7-2017 in the resort with which the Petitioners herein are concerned.

2 It is not necessary to dilate further on facts. The resort with which the Petitioners are concerned i/e M/s. Nature Trails Resort Ltd. and the first informant i.e. the Respondent No.2 herein have arrived at a settlement which is reduced into writing by way of settlement agreement executed on 17-2-2018. The said settlement agreement evidences the comprehensive settlement

arrived at between the parties. It records the factum of the said M/s. Nature Trails Resort Pvt. Ltd. bearing the medical expenses of the Respondent No.2 to the tune of Rs.8,24,020/- and also provides for payment of Rs.15 lacs in full and final settlement with the Respondent No.2. The said agreement also provides for quashing of the proceedings being C. C. No.1438 of 2017 and payment of an amount of Rs.10,00,000/- out of the amount of Rs.15,00,000/- on quashing of the said proceedings. The Respondent No.2 has also filed an affidavit affirmed before Mr. N. S. Bhaisare, Notary Government of India, having his office at Thane. The said affidavit bears the notarial registration No.50 dated 16-4-2018. Paragraphs 2 and 3 of the said affidavit are material and are reproduced herein under:

2. I say that pursuant to the mediation and advice of well wishers and elders I say that I have no objection if the Petition is allowed and CC No.1438 of 2017 pending before the JMFC Court at Khalapur arising from C, R, No.203/2017 registered by the Khalapur Police Station on 26th August, 2017 u/s 338 and 34 of the IPC at the instance of respondent No.2 is quashed. I say that we have settled the disputes in terms of settlement agreement at Exhibit – C to the Petition.

3. I say that I have no objection if the Petition is allowed in terms of prayer clause (a).

3 The Respondent No.2 Anil Bhaskaran Achary is personally present in Court. He is identified by the Learned Counsel Mr. Santosh Avhad. He is identified by his Adhar Card bearing No. 852822581254. When put in the box

and queried, he states that he has read and understood the contents of the said affidavit dated 16-4-2018 filed on his behalf in the above Petition. He accepts the factum of settlement between the parties, he also accepts the fact that the said M/s. Nature Trails Resort Pvt. Ltd. has paid for the medical expenses, he states that he has received an amount of Rs.5 lacs out of the total amount payable i.e. Rs.15 lacs. He lastly states that he has signed the said affidavit of his own free will and volition.

4 The Petitioner No.1 Mr. Amit Baliram Nandi is personally present in Court. He is identified by the Learned Counsel Mr. Samsheer Garud. He is also identified by his Adhar Card bearing No.797860512712. When put in the box and queried he accepts the factum of settlement between M/s Nature Trails Resort Pvt. Ltd. and the Respondent No.2. He states that an amount of Rs.5 lacs has already been paid upfront and that the balance amount of Rs.10 lacs would be paid to the Respondent No.2 for which a post dated cheque has already been given to the Respondent No.2 which cheque he assures the court would be honoured.

5 In view of the statement recorded by the Petitioner No.1 it is not necessary to record the statements of the other Petitioners though they are personally present in court as the Petitioner No.1 is the Manager under whom the other Petitioners are working.

6 Having regard to the settlement agreement dated 17-2-2018, affidavit filed by the Respondent No.2, the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried, the same indicate that the parties have settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the case in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the charge sheet would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

7 The Petitioners to deposit costs totalling to Rs.25,000/- with the Central Society for the Education of the Deaf situate at Farook S. Umarbhoy Path, Agripada, Mumbai, within 6 weeks from date. Receipt to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065