

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2235 OF 2017

Akshay Sthapatya Pvt.Limited & ors .. Petitioners
Versus
Ganpat Ramchandra Navghane & Anr .. Respondents

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Mr. Darshan J. Juikar with Dinesh Shinde I/b Kripashankar
Pandey for the petitioners.
Mr.S.D. Shinde, APP for the State.

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

DATED : 29th AUGUST, 2018

P.C:-

1 Heard learned counsel for the petitioner, learned
counsel for respondent no.1 and the learned APP for the State.

2 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.
56/Misc/2016 pending on the file of learned Metropolitan
Magistrate, 62nd Court at Bhoiwada, Mumbai. The said case

arises out of the registration of the FIR bearing MECR No.208 of 2016 at the instance of respondent no.1 with Worli Police Station at Mumbai for offences punishable under Sections 447, 448, 453, 454, 451, 506 r/w Section 120 of the Indian Penal Code.

3 Pending trial as well as pending this petition, parties have settled their dispute amicably and have filed consent terms dated 29th August 2018. In the consent terms, both the parties have agreed as follows :--

- (A) Handover a tenement along with the key of Transit No.5, being tenement No.10, admeasuring 225 sq.ft in the Mariamma Nagar, SRA CHSL, A.B. Road (hereinafter referred as the said Tenement”) Worli along with the notarized Tri Partite Agreement dated 28th November 2015 executed by and between the Respondent No.1, Petitioner No.1 and the Mariamma Nagar (SRA) co-operative Housing Society Ltd (proposed) for the same to the Respondent no.1.
- (B) Hand over a cheque to respondent no.1 for a sum of Rs.8,35,000/- (Rupees Eight Lakhs Thirty Five Thousand only) being full and final consideration amount towards the arrears of rent starting from 07.05..2010 till date.

(C) Hand over a cheque of Rs.1,20,000/- (Rupees One lakhs twenty thousand only) in the name of Mr.Jagdish Ganpat Navghane as full and final settlement, for his belongings lying and stored in the tenement no.10 in Transit No.5 and he shall hand over an undertaking indemnifying the Petitioners from any action civil/criminal in respect of the said material.

(D) Shall put the respondent no.1 into possession of allotted Flat in the aforesaid Mariamma Nagar (SRA) Co-operative Housing Society Ltd (proposed) as and when the same is constructed and ready for residential occupation without necessary delay as per prevalent rules and laws.

4 In terms of the consent terms, learned counsel for the petitioner has handed over two cheques, one for a sum of Rs.8,35,000/- (Rupees Eight Lakhs Thirty five thousand and other for Rs.1,20,000/- (Rupees One Lac Twenty thousand) in name of Jagdish Ganpat Navghane towards full and final settlement.

5 Petitioners have also given possession as described in Clause (A) above by handing over the keys to the respondent no.1. In light of the above statement, respondent no.1 agreed

to give no objection for quashing the subject FIR. The consent terms are signed by all the petitioners and respondent no.2 along with their counsel. The petitioners as well as respondent no.1 are personally present before the Court.

6 On specific query, they stated that they have gone through the consent terms and understood the contents thereof. In the light of this statement, we take the consent terms on record and mark “X” for identification.

7 The respondent no.1 in addition to above, has also filed affidavit dated 29th August 2018. In paragraph no.3, he has given no objection to quash the proceedings of the subject criminal case. He also states that she is giving no objection for quashing the said FIR out of free will and without there being any pressure or coercion.

8 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

1 [2014 AIRSCW 2065]

offences are not compoundable, it does so as in its 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.

9 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. However, at the same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

10 Accordingly, the writ petition is allowed in terms of prayer clause (b) subject to payment of costs of Rs.25,000/- by the petitioners to the account of Police Welfare Fund within a period of two weeks from today. The petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the aforesaid order allowing the Writ Petition would automatically stand recalled.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

Manali
Prasanna
Tilak

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