

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2713 OF 2018**

Rajendra Babulal Shah & Anr

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. A. P. Ghag for the Petitioners

Ms Urvi Dave for the Respondent No.2

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

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

DATE : 20th JULY, 2018

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being No.290 of 2017 registered with the Charkop Police Station for the offences punishable under Sections 406, 420 and 34 of the IPC. The said FIR is a fall out of a dispute in respect of an immoveable property which the first informant claims belong to his father and which was sought to be usurped by the Petitioners herein. It is not necessary to dilate further on facts. The first informant i.e. the Respondent No.2 herein has filed an affidavit dated 19-7-2018 and affirmed in this court on the said day. In paragraph 2 of the said affidavit a reference is made to the negotiations which took place between the parties to amicably resolve their dispute. In paragraph 3 of the said affidavit a reference is made to the Memorandum Of Understanding (MOU) dated 19-7-2018, entered into between the parties. The said MOU is annexed to the said affidavit and is at running page 27 to page 35. In the context of the present Petition clauses 9 and 10 of the said MOU are material and are reproduced

hereinunder:

9. Shri Chandresh Babubhai Rana agrees and confirms that he shall appear before the Hon'ble High Court on 19th July 2018 and shall file his Affidavit supporting the prayers in Criminal Writ Petition No.2713 of 2018 filed by the parties of First Part. Shri Chandresh Babubhai Rana further agrees and confirms that he shall give no objection for quashing the said FIR No.290 of 2017 registered with Charkop Police Station.

10. The parties of the Second Part herein further confirm that they shall not raise any claim and/or any allegation against the parties of the First Part hereinafter under any circumstances.

2 In so far as the affidavit is concerned, paragraph 7 of the said affidavit is material and is reproduced hereinunder:

7. I say that in view of the above, we have no objection for quashing of FIR No.290 of 2017 registered with Charkop Police Station.

3 The Respondent No.2 Mr. Chandresh Babubhai Rana is personally present in Court. He is identified by the Learned Counsel Ms Urvi Dave. He is also identified by his Adhar Card bearing No.389897779215. When put in the box and queried he accepts the factum of the settlement having taken place between the parties and the MOU executed pursuant thereto. He further states that he has read and understood the contents of the affidavit dated 19-7-2018 filed on his behalf in the above Petition. He further states that in view of the settlement he does not desire to proceed with the FIR in question. He lastly states that he has filed the affidavit of his own free will and volition.

4 The Petitioner No.1 Mr. Rajendra Babulal Shah is also personally present in Court. He is identified by the Learned Counsel Mr. Ghag. He is also identified by his Adhar Card bearing No.776336034057. He also confirms the execution of the MOU which evidences the settlement arrived at between the parties. He states that the Respondent No.2 does not desire to proceed with the case in question in view of the out of court settlement between the parties, which is reflected by the MOU. The Petitioner No.2 is the son of the Petitioner No.1 and it is therefore not necessary to record his statement.

5 Having regard to the MOU dated 19-7-2018, affidavit filed by the first informant also dated 19-7-2018, the statements made by the Respondent No.2 i.e. the first informant and the Petitioner 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 FIR in question. In the said context 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**, which indicate that no useful purpose would be served in keeping the proceedings in question pending. In view of the settlement between the parties the above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a).

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065

The above Criminal Writ Petition is accordingly disposed of.

6 In so far as the amount of Rs.30,20,000/- which is lying in this Court, the parties would abide by clause (7) of the MOU in terms of which clause out of the said amount of Rs.30,20,000/- an amount of Rs.12,20,000/- is required to be paid to the Respondent No.2 herein. The parties would therefore at liberty to apply to the registry for withdrawal of the amount as contemplated by clause (7) of the MOU namely the Petitioners would withdraw an amount of Rs.30,20,000/- and would make the payment of Rs.12,20,000/- to the Respondent No.2. The Petitioner undertakes to make payment of the said amount of Rs.12,20,000/- to the Respondent No.2. Undertaking accepted.

7 In the facts and circumstances of the case, the Petitioners to deposit costs of Rs.25,000/- with the National Association of Blind, Mumbai within 6 weeks from date. Receipt to be obtained and filed in the registry.

8 The Respondent No.2 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.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]