

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2811 OF 2013**

Mr. Sachin Yeola & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Bhavin Bhatia for the Petitioners

Mr. Sameer Tendulkar I/b Shyamrshi Pathak for the Respondent No.2

Mr. Avinash Kamkhedkar Addl PP for the Respondent State

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

DATE : 30th JULY, 2018

P.C.

1 At the outset, the Learned Counsel for the Petitioners seeks leave to amend the cause title so as to join the remaining two accused as the Petitioners to the above Writ Petition. He undertakes to file vakalatnama on behalf of the newly added Petitioners during the course of the present week. Leave granted. Amendment to be carried out forthwith. Undertaking to file the vakalatnama is also accepted.

2 The above Writ Petition has been filed for quashing of the FIR bearing No. 126 of 2013 registered with the RCF Police Station, Mumbai on 13-6-2013 for the offences punishable under Sections 420 and 34 of the IPC.

The said FIR is a consequence of the dispute between the parties as regards the redevelopment of the property of the society in question. It is not necessary to delve further into the facts as the first informant i.e. the Respondent No.2 has filed an affidavit bearing today's date i.e. 30-7-2018, affirmed before Diya Sanghvi, Notary Govt. of India, Greater Mumbai. and bears notarial registration No.838 dated 30-7-2018. Paragraph 6 of the said affidavit is material and is reproduced hereinunder:

6. I am making this affidavit in order to submit the same before the Hon'ble High Court of Bombay to show the above facts and give my no objection for quashing the FIR No.126 dated 13/6/2013 being Exhibit – A to the Petition registered by the Senior Inspector of Police against the petitioners for alleged offence u/s 420 r/w 34 of Indian Penal Code is quashed.

The said affidavit is annexed to the Consent Terms which evidences the settlement between the Petitioners and the Respondent No.2. The said Consent Terms also bears today's date i.e. 30-7-2018. Clauses 5 and 6 of the said Consent Terms are material and are reproduced hereinunder:

5. Agreed and confirms that in view of present terms the FIR No.126 registered with concerned Police Station dated 13/6/2013 of Respondent No.1 be quashed against the Petitioners mentioned hereinabove. Appropriate Affidavit is annexed and marked as Annexure-A hereto.

6. Petition be allowed, in view of these consent terms.

3 The Respondent No.2 Mr. Manohar Dattaram Katwale is personally present in Court. He is identified by the Learned Counsel Mr. Tendulkar. He is also identified by his Pan Card bearing No.ACAPK4826E. When put in the box and queried he states that he has read and understood the contents of his affidavit dated 30-7-2018 affirmed before the notary of Divya Sanghavi. He further states that he has filed the said affidavit in view of the settlement between the parties. He lastly states that he is not desirous of proceeding with the case in question and that he has filed the said affidavit of his own free will and volition.

4 The Petitioner No.1 Sachin Yeola is personally present in Court. He is identified by the Learned Counsel Mr. Bhatia. He is also identified by his Pan Card bearing No.AARPY8831A. When put in the box and queried he accepts the factum of the settlement arrived at between the parties which is evidenced by the Consent Terms bearing today's dated i.e. 30-7-2018.

5 The Petitioner No.2 Ramesh Bhaskar Patil is also personally present in Court. He is identified by the Learned Counsel Mr. Bhatia. He is also identified by his Driving Licence bearing No. MH-03 20090101733 issued on 16-2-1983 and valid till 29-11-2019. When put in the box and queried he accepts the factum of the settlement arrived at between the parties which is evidenced by the Consent Terms bearing today's dated i.e. 30-7-2018.

6 The Petitioner No.3 Vivek Dattatray Amberkar is also personally present in Court. He is identified by the Learned Counsel Mr. Bhatia. He is also identified by his Pan Card bearing No.AIXPA3379D. When put in the box and queried he accepts the factum of the settlement arrived at between the parties which is evidenced by the Consent Terms bearing today's dated i.e. 30-7-2018, as a result of which the Respondent No.2 is not desirous of proceeding with the case in question.

7 Having regard to the Consent Terms bearing today's date i.e. 30-7-2018 as also the affidavit filed by the Respondent No.2 also bearing today's dated i.e. 30-7-2018, the statements made by the Respondent No.2 and the Petitioners when put in the box and queried. The same indicates that the parties have settled the dispute amicably as a result of which the Respondent No.2 is not desirous of proceeding with the case in question.

8 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

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065

to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the FIR No.126 of 2013 would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

9 The Petitioners to deposit costs of Rs.50,000/- with the Tata Memorial Hospital within 6 weeks from date. Receipt to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

Meera
Mahesh
Jadhav
Digitally
signed by
Meera
Mahesh
Jadhav
Date:
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