

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

WRIT PETITION NO. 3342 OF 2018

Mr.Sandeep Kashinath Lamkhede

and others

... Petitioners

Vs.

The State of Maharashtra and another

... Respondents

Mr.Ganesh Gole, for Petitioners.

Mr.V.B.Konde Deshmukh, APP, for State.

Mr.Ateet Shirodkar, for Respondent No.2.

CORAM : S. S. SHINDE &

MRS.MRIDULA BHATKAR, JJ.

Date : September 6, 2018.

P.C. :

Heard. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal.

2. This Writ Petition is filed for quashing of the M.E.C.R. No.243 of 2018 which was registered with Nashik Road Police Station. The Respondent No.2 is a complainant who filed private complaint before the Judicial Magistrate First Class, at Nashik Road seeking inquiry under section 156(3) for the offence punishable under section 498, 420, 423, 426, 463, 464, 465, 471, 474 and

120(B) of the Indian Penal Code. Pursuant to the said complaint the learned Magistrate directed inquiry under section 156(3) of Code of Criminal Procedure and thereafter the police registered offence i.e. M.E.C.R. No. 243 of 2018. Before filing the aforesaid complaint, Petitioner No.2 had already filed a suit for specific performance against the Respondent No.2 and Petitioner No.1 in respect of suit premises in Civil Court, then numbered as Special Civil Suit No.491 of 2015.

3. During the pendency of the said suit, the matter was referred to the Judge-Mediator, and the dispute was settled between the parties before the Judge-Mediator pursuant to which the learned Joint Civil Judge, Senior Division, Nashik has taken the said settlement on record by order dated 2 July 2018, and in view of the submissions, the order was passed. Pursuant to the settlement, Petitioner-accused and the Complainant agreed to settle dispute before the Criminal Court. The learned counsel for the Complainant and the learned counsel for the Petitioner-accused submit that, today parties are present before the Court and they have settled the dispute.

4. The affidavit of Sameer Sattar, the Respondent No.2, the original Complainant is taken on record. In said affidavit it has been mentioned that, both parties have arrived at settlement. The suit property is now handed over to him by the Applicant No.1 and his name is also entered in all the government record and therefore, he has no grievance against the Applicant / Accused, and he does not

wish to continue the said prosecution against the Applicant and prays that the said M.E.C.R be quashed and set aside. The learned counsel of both the parties have identified the parties including Respondent No.2.

5. In view of this and especially as merely the dispute between the parties was of civil nature and it was settled and the settlement in the said dispute is taken on record by order dated 2 July 2018, passed by the Joint Civil Judge, Senior Division Nashik, we are of the view that it is a fit case to set aside the said M.E.C.R No.243 of 2018. Accordingly, Writ Petition succeeds and same is allowed in terms of prayer clause (a), which reads as follows -

(a) That, this Honourable Court may kindly issue the writ of certiorari or any other appropriate writ or direction thereby quashing and setting aside the impugned order dated 24.05.2018 passed by the Judicial Magistrate of First Class, Nashik in Criminal M.A. No.1003/17; directing Nashik Road Police Station to register FIR u/s 156(3) to quash the said CR -243/18.'

Rule made absolute in above terms and Writ Petition stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)