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

WRIT PETITION NO. 3599 OF 2018

Mahaling @ Dharma Sidram Kamble
and Ors.

... Petitioners.

V/s.

The State of Maharashtra & Anr.

... Respondents.

Mr. Samir Kumbhakoni for the Petitioners.

Ms. M.M. Deshmukh, APP for the State.

Mr. P.P. Kulkarni for Respondent 2.

***CORAM : S.S. Shinde and
Smt. Mridula Bhatkar , JJ.***

DATE : 31st August, 2018.

P.C. :-

Heard learned Counsel for the parties. Learned APP appearing for the State.

2. The learned Counsel appearing for the Petitioners, on instructions, agreed to deposit Rs.10,000/- in the account of the High Court Legal Services Committee, Mumbai within one week from today.

3. The learned Counsel appearing for Respondent No.2 has tendered across the bar affidavit of Respondent No.2. Same is taken on record.

4. Rule. Rule made returnable forthwith with the consent of parties.

5. This Petition is filed under Article 226 of the Constitution of India on the following substantial prayer :-

“(b) This Hon'ble Court may be pleased to quash and set aside the proceedings under R.C.C. No. 115 of 2016”

6. Pursuant to the notice issued to the Respondent, the affidavit on behalf of Respondent No.2 has been filed. It appears from the documents placed on record that the Petitioner No.1 by way of filing pursis below Exhibit 60 had withdrawn the Special Civil Suit No. 161 of 2015 (Mahaling Sidram Kamble v/s. Sunil Vasant Potdar). Upon perusal of the documents placed on record it appears that the genesis of entire controversy or dispute including the allegations made in the First Information Report appears to be arising out of civil dispute which was pending between the parties. Upon perusal of the affidavit filed on behalf of Respondent No.2 i.e. Complainant, a Special Civil Suit No. 161 of 2015 has been conditionally withdrawn by Petitioner No.1. The Respondent No.2

do not wish to pursue the allegations in the First Information Report. The parties have arrived at mutual settlement on certain terms. The parties are identified by the learned Counsels representing them.

7. Keeping in view the observations of the Supreme Court in the case of *Gian Singh v/s. State of Punjab* reported in (2012) 10 SCC 303 that if the dispute is pre-dominantly of civil nature and if the parties have arrived at settlement on certain terms, such settlement can be accepted so as to secure ends of justice and prevent abuse of process of law/court, we are inclined to allow the joint prayer of the parties to dispose of the Writ Petition in terms of settlement arrived at between the parties.

8. Accordingly, the Petition is allowed in terms of prayer clause (b). Rule is made absolute on above terms. The Petition stands disposed of accordingly.

(Smt. Mridula Bhatkar, J.)

(S.S. Shinde, J.)

Jyoti
Prakash
Pawar

Digitally
signed by Jyoti
Prakash Pawar
Date:
2018.09.03
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