

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3907 OF 2017**

**ITC Maratha Hotel
Kuldeep Bharti being the GM &
authorised representative : Petitioner.
Versus
The State of Maharashtra and anr. : Respondents.**

**Mr. Sanjog Parab i/by Parab and Associates for the Petitioner
Mr S V Marwadi a/w Ms. Priti Naik a/w Ms. Sampada S Mahadik for the
Respondent No.2.**

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.
DATE : 01st FEBRUARY 2018**

P.C.

1 The above Writ Petition has been filed for quashing of the proceedings being MECR 1 of 2017 arising out of FIR No.42 of 2017 registered with Sahar Police Station, Mumbai for the offences punishable under Sections 63 and 69 of the Copyright Act, 1957 read with Section 418 of the Indian Penal Code.

2 The reasons why the complaint under Section 156(3) of the Criminal Procedure Code came to be made to the learned Magistrate have been mentioned in the FIR and more especially the factum of the rights of the first informant being violated in playing the songs of the films “Sairat” and “Sultan”. It is not necessary to dilate further on the said aspect. Suffice it would be to state that the parties have amicably resolved their disputes and have executed an Agreement on 17/06/2017 which is annexed to the above

Writ Petition as Exhibit-J page 56. In the context of the present Writ Petition clause 12 of the said Agreement assumes importance and is reproduced herein under :-

“Novex undertakes that it shall, immediately upon realization of annual license fees & one – time license fees, withdraw all litigation(s), suits, complaints, filed by Novex or its representatives against the said Company ITC Ltd/its hotels/subsidiaries/employees/officers/directors before any/all forums, and in particular the suits bearing TM No.13795/16 before the Additional Civil Judge-1, Patiala House Courts, New Delhi, Civil Suit No.120/2016 before Additional District and Sessions Judge, Gurugram, Original Suit No.8380/2016 before the City Civil & Sessions Judge Bengaluru. Further, Novex shall assist and co-operate with the said Company to quash FIR No.42/17 in Sahar Police Station, Mumbai and any other FIR regarding alleged infringement of copy right lodged/registered by Novex against the said Company ITC Ltd./its hotels/subsidiaries/employees/officers/directors as per provision of law or after following due process of law. For such quashing Novex shall file necessary affidavits in the appropriate proceedings. Novex will also ensure effective withdrawal/closure of the said FIR and will take necessary steps in future and cooperate with the said Company to bring about closure of the said FIR.

3 The representative of the first informant I.e Novex Communication Pvt. Ltd one Shri Mohammed Wasim Sayed has filed an affidavit pursuant to the authorization given to him vide Resolution 5 passed in the meeting of the Board of Directors of the said Novex Communication Pvt. Ltd on 23/09/2017. Paragraph 3 of the said affidavit is material and is reproduced herein :-

“In view of the said consent terms/Agreement between

the Petitioner and the Respondent No.2, I am authorised by the Respondent No.2 Company to submit before this Hon'ble Court. The Respondent No.2 has No Objection to quash the criminal proceedings under the aforesaid MECR No.01 of 2017 filed before Sahar Police Station.”

4 The representative of the first informant Shri Mohammed Wasim Sayed is personally present in Court. He is identified by the learned counsel Shri S V Marwadi. He is also identified by his Aadhar Card bearing No.3521 7306 8292. When put in the box and queried he states that the first informant and the Petitioner have entered into an agreement which is executed on 17/06/2017 evidencing the settlement arrived at between the parties. He further states that he has filed the instant affidavit dated 11/10/2017 pursuant to the authorization given to him by the Company and that he has read the said affidavit and that the same is acceptable to him and his Company.

5 The representative of the Petitioner Shri Kuldeep Bhartee, General Manager is personally present in Court. He is identified by the learned counsel Shri Sanjog Parab. He is also identified by his Aadhar Card bearing No.7495 7362 1037. When put in the box and queried he states that the consent terms/agreement have been entered into between the Petitioner and the Respondent No.2 and that he has also seen the affidavit which has been tendered today on behalf of the Respondent No.2.

6 In view of the consent terms/agreement and especially clause 12

thereof as also having regard to the affidavit filed on behalf of the first informant by its representative, it is clear that the parties have amicably resolved their dispute as regards the alleged copyright violation and as a result the first informant is not desirous of proceeding with the said proceeding being MECR 01 of 2017. In the light of the aforesaid, no useful purpose would be served in keeping the proceedings Pending. Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s State of Punjab & Anr reported in (2012) 10 SCC 303 and Narinder Singh & ors v/s. State of Punjab & Anr reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Writ Petition, the same is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

7 Since the machinery of this Court is used in settling the disputes, the Petitioner to pay costs of Rs.50,000/- to be deposited with Mumbai Police Welfare Fund in the office of the Commissioner of Police, Mumbai. The Respondent No.2 to pay costs of Rs.15,000/- to be deposited with the Maharashtra Legal Aid Fund. The costs to be paid within six weeks from date, receipts to be obtained and filed in the Registry of this Court.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]