

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4449 OF 2018

Sheela Sunil Goenka and anr .. Petitioners
Versus
The State of Maharashtra and Anr .. Respondents

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Mr. Ishwariprasad Bagaria for the petitioners.
Mrs.A.S.Pai, APP for the State.
Mr.Pankaj Pandey for respondent no.2.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 22nd OCTOBER 2018

P.C:-

1 Heard learned counsel for the petitioners, learned counsel for respondent no.2 and the learned APP for the State.

2 The petitioner has approached this Court for invoking jurisdiction under Article 226 of the Constitution of India to quash the proceedings of the FIR No.46 of 2009, EOW Unit-III, Mumbai being transferred as FIR No.127 of 2009 registered by M.R.A.Marg Police Station at the instance of respondent no.2 for offences punishable under Sections 380,

406, 420, 465, 467, 468, 471, 120B r/w Section 34 of the Indian Penal Code.

3 The petitioner no.2 is the husband of petitioner no.1. The allegation against the petitioner is that he has fabricated the Will of the father. The FIR was investigated and therefore, “B” Summary Report was filed. “B” Summary report was not accepted and further investigation was carried out by the EOW. In the meanwhile, parties settled their dispute and filed consent terms in Suit No. 2559 of 2008 in the High Court. Copy of the consent terms is annexed at page 107 of the petition.

4 Pending trial as well as pending this petition, parties have settled their dispute amicably. Respondent no.2 agreed to give no objection for quashing the subject FIR. The petitioners as well as respondent no.2 are personally present before the Court.

5 The respondent no.2 has filed affidavit dated 17th October 2018. In paragraph no.6, he has given No Objection to quash the proceedings of the subject criminal case. He also states that he is giving no objection for quashing the said FIR out of free will and without there being any pressure or coercion.

6 The Hon'ble Apex Court in the case of ***Narinder Singh vs. State of Punjab***¹ has observed thus :-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceedings having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute

1 [2014 AIRSCW 2065]

between buried the hatchet, we are of the opinion that the FIR is liable to be quashed.

7 In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh** (supra), we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

8 Accordingly, the Writ Petition is allowed in terms of prayer clauses (a), (b) and (c). In the facts and circumstances of the case, we find it would be appropriate to saddle the petitioners with the cost of Rs.25,000/- (Rupees Twenty Five thousand) which shall be paid to **“Yashodhan Charitable Trust”, Bank of Maharashtra Branch: Powai Naka, Satara, Account No.60245873355, (IFSC Code : MAHB0000305)** Satara (having Registration No.1895/Satara Maharashtra), an institution that takes care of the mentally retarded and elderly people in the downtrodden society. For the quashment to take effect, the petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four

weeks from today. Failing to pay cost and produce receipt within stipulated time, Petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)