

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

CRIMINAL WRIT PETITION NO.4464 OF 2018

Mr.Santosh Harihar Foman & Ors. ..Petitioners
V/s.
The State of Maharashtra & Anr. ..Respondents

**WITH
CRIMINAL WRIT PETITION NO.4463 OF 2018**

Hariprasad L. Yadav & Ors. ..Petitioners
V/s.
The State of Maharashtra & Anr. ..Respondents

Mr.Bhushan Deshmukh i/b Mr.A.G. Dolas for the Petitioners in WP No.4464 of 2018 and 4463 of 2018.

Mr.Sumit S. Kate for the Petitioners in WP No.4463 of 2018 and for Respondent No.2 in WP No.4464 of 2018.

Mr.Deepak Thakare, PP a/w Ms.S.D. Shinde, APP in WP No.4464 of 2018.

Mrs.A.S. Pai, APP for the Respondent-State in WP No.4463 of 2018.

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

DATE : 24th OCTOBER 2018

P.C.

1. Heard learned counsel for the petitioners, learned APP and the learned counsel for respondent No.2 respectively.

2. The petition No.4464 of 2018 is filed for quashing and setting aside the proceedings of the Criminal Case bearing No.3043/PS/2015 pending on the file of Metropolitan Magistrate, 66th Court, Andheri, Mumbai. The said case arises out of registration of CR No.11 of 2015 registered at Airport Police Station, Mumbai at the instance of the respondent No.2 Hariprasad Lalatprasad Yadav for offence punishable under Section 143, 145, 147, 149, 323, 504, 506 of Indian Penal Code and section 37(1) with Section 135 of the Maharashtra Police Act.

3. Writ Petition No.4463 of 2018 is filed for quashing and setting aside the proceedings of the Criminal Case bearing No.2683/PW/2018 pending in the file of Metropolitan Magistrate, 66th Court, Andheri, Mumbai. The said case arises of the registration of CR No.10 of 2015 registered at Airport Police Station, Mumbai at the instance of the respondent No.2 Santosh Harihar Foman for offences punishable under Section 143, 145, 147, 149, 323, 504, 506 of Indian Penal Code and section 37(1) with Section 135 of the Maharashtra Police Act. Thus these are the cases arising out of the complaints.

4. Pending trial, parties have settled their dispute amicably

and have petitions and the complainants in respective C.R.'s have filed separate affidavits dated 04.10.2018. In paragraph No.3 of the said affidavit they have given no objection to quash the proceedings of the subject criminal case. Both the respondent No.2 original complainants are present in Court and on specific query they have made a statement that they have gone through the application and affidavit and understood have the contents thereof. They specifically states that they have no objection to quash the subject FIR against the present applicants.

5. 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

1 [2014 AIRSCW 2065]

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 between them and no gainful purpose would be achieved in continuing the prosecution.

6. 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 machinery as well as judicial mechanism for settling their personal disputes.

7. Accordingly, Criminal Case bearing No.3043/PS/2015 pending on the file of Metropolitan Magistrate, 66th Court, Andheri, Mumbai and Criminal Case bearing No.2683/PW/2018 pending in the file of Metropolitan Magistrate, 66th Court, Andheri, Mumbai arising out of FIR's bearing CR Nos.11/2015 and 10/2015 registered with Airport Police Station, Mumbai are quashed and set aside subject to both the petitioners paying cost of Rs.5,000/- each to Anandwan, Maharogi Seva Samiti, Warora which is non-profit, non-governmental organization working towards betterment of stigmatized and people with disability such as leprosy, visually impaired, speech impaired etc. Details of the account of "Maharogi Seva Samiti, Warora" are as below:-

Saving account No.	20255737169
Name of the Bank	Bank of Maharashtra,
Branch	Anandwan
IFSC Code	MAHB0000792

The said amount be deposited within the period of two weeks from today and the receipt of the same be placed on record.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)