

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

WRIT PETITION NO.4761 OF 2017

Jetharam Jivaram Choudhary and anr. ... Petitioners
v/s
The State of Maharashtra and anr. ... Respondents

Mr Nilabh Toshnival for Petitioners.
Mr F.R. Shaikh, APP for State.
Mr A. P. Pawar for Respondent No.2.

Vijay
Raghunath
Date

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

DATED : 19th SEPTEMBER 2018

P.C. :

1. Heard learned counsel for the Petitioners, learned counsel for Respondent No.2 and the learned APP.

2. The Petition is filed for quashing and setting aside the

FIR in respect of C.R. No.65 of 2013 registered under sections 420, 406, 506, 507 r/w 34 of IPC at Shivajinagar Police Station, Ichalkaranji, Kolhapur. The Petitioners are accused Nos.2 and 3 in the said crime. After investigation in this crime register, charge-sheet is not filed and Criminal Case No.65 of 2013 is pending.

3. Pending trial, the Petitioners and Respondent No.2 have decided to put an end to the proceedings instituted under sections 420, 406, 506, 507 r/w 34 of IPC. The learned counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present Petition is filed for quashing the above FIR.

4. The Respondent No.2 is personally present in Court. He has filed his affidavit dated 22nd November 2017. In paragraph 4, he has given no objection for allowing this Petition preferred by the Petitioners arising out of its C.R. No.100 of 2010 registered with Shivajinagar Police Station, Ichalkaranji, Kolhapur

at their instance for an offence punishable under sections 420, 406, 506, 507 r/w 34 of IPC. On specific query made by us, he states that he do not want to proceed against the subject crime. He further states that he is giving his consent, on his own free will and without coercion or any sort of pressure. Since the parties have settled their dispute amongst themselves and such a settlement is permissible within the four corners of law as laid down in the case of Narendra Singh Vs. State of Punjab, reported in (2014) AIR SCW 2065, we are of the opinion that there is no legal impediment in quashing the subject FIR. We would also make a reference to the observations made in paragraph 24 of the Hon'ble Apex Court judgment of Narendra Singh (supra), which reads thus :-

“24. The two rival parties have amicably settled the disputes between themselves and buried the hatchet. Not only this, they say that since they are neighbours, they want to live like good neighbours and that was the reason for restoring friendly ties. In such a scenario, should the court give its imprimatur to such a settlement ? The answer depends on various incidental aspects which need serious discourse. The legislators have categorically recognised that those offences which are covered by the provisions of section 320 of the Code are concededly those which not only do not fall within the category of heinous crimes but also which are personal between the parties. Therefore, this provision recognises where there is a compromise between the parties, the court is to act at the said compromise and quash the

proceedings. However, even in respect of such offences not covered within the four corners of section 320 of the Code, the High Court is given power under section 482 of the Code to accept the compromise between the parties and quash the proceedings. The guiding factor is as to whether the ends of justice would justify such exercise of power, both the ultimate consequences may be acquittal or dismissal of indictment. This is so recognised in various judgments taken note of above."

5. As the Police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Petitioners with cost of Rs.10,000/- each which shall be paid to "**Tata Memorial Hospital**", an institution that takes care of the advanced and terminally ill cancer patients. 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 a 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 shall be treated as non-est.

6. Accordingly, Petition is allowed in terms of prayer clause (a).

7. Since we have quashed and set aside the subject crime register, the Petitioners are directed to be released forthwith if not required in any other crime.

(SMT BHARATI H. DANGRE, J.)

(RANJIT MORE, J)