

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL WRIT PETITION NO.5174 OF 2017**

Rajkumar P. Bind & Anr.] ... Petitioners
Versus
Rajaran N. Chopdekar & Anr.] ... Respondents

Mr. Kripashankar Pandey i/b M/s. Mrunmai Kulkarni for Petitioners.
Mr. Aditya Mithe for Respondent No.1.
Mrs. P. P. Shinde, APP for State – Respondent No.2.
Mr. Y. D. Patil, PSI attached to Dadar Police Station, present.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**

DATE :- 15 MARCH, 2018

P. C. :-

1. The Petitioner is granted leave to amend the Affidavit so as to correct the case number and the Sections mentioned in para 1. Amendment to be carried out forthwith.

2. The above Petition has been filed for quashing of the proceedings being CC No.2084/PS/2012 pending in the Court of learned Additional Chief Metropolitan Magistrate, 5th Court, Bhoiwada (Dadar), Mumbai. The said proceedings have arisen out of the FIR being C.R.No.278 of 2012 registered with the Dadar Police Station, Mumbai for the offences punishable under Sections 336 and 337 of

the IPC. The Respondent No.1 herein who is the first informant, was hit by a cement block whilst he was walking from Eknath Hatiskar Marg towards Worli sea face while taking a morning walk. It is not necessary to dilate further on facts in view of the fact that the first informant i.e. the Respondent No.1 has filed an Affidavit dated 09/02/2018 sworn before B. R. Dube, Notary, Government of India, having his office at 7/106, Lady Ratan Compoex, D. S. Marg, Worli, Mumbai – 400 018 and entered in Notarial Registration No.80 at Sr.No.49632 dated 09/02/2018. The undertone of the said Affidavit is that on account of the settlement arrived at between the parties, the Respondent No.1 does not desire to press any allegations against the Petitioners herein. Paragraphs 3 and 4 of the said Affidavit are material and are reproduced hereinunder.

“3. In the light of the above settlement entered into and arrived at between both the parties and subject to the compliance of the same, I, being the Original Complainant, do not wish to proceed with the above case filed against the Petitioner.

4. Hence, without going into the merits of the matter and without intending to press any allegations levelled by me, I seek to withdraw all allegations against the Petitioner in the light of the above mutual settlement arrived at between both the parties. I further state that the same is being done by me without any coercion, force or influence and is given out of my free consent.”

3. The Respondent No.1 Rajaram N. Chopdekar is personally present in Court. He is identified by the learned Counsel Mr. Aditya Mithe. He is also identified by her Aadhar Card bearing No.5314 4773 1678. When put in the box and queried, he states that the settlement has been arrived at between the parties as a result of which the Respondent No.1 does not desire to proceed with the case in question. The Petitioner No.1 Rajkumar Bind is also personally present in Court. He is identified by the learned Counsel Mr. Kripashankar Pandey instructed by Ms. Mrunmai Kulkarni. He is also identified by his Aadhar Card bearing No.9118 5701 5610. When put in the box and queried, he accepts the factum of settlement being arrived at between the parties as a consequence of which their employer has taken the required steps to deposit the amount in the account of the concerned trust. The learned Counsel for the Petitioners seeks to draw our attention to the receipts which have been furnished to the employer of the Petitioners as evidence of the amount deposited by the said employer. It is not necessary to record the statement of the Petitioner No.2.

4. Having regard to the Affidavit filed by the Respondent No.1 i.e. the first informant and the statements made by the Respondent No.1 and the Petitioner No.1 when put in the box, the same indicate that the parties have settled the matter and therefore, no useful purpose would be served by continuing the proceedings. The Judgments of the Apex Court in the cases of Gian Singh Vs. State of Punjab & Anr. reported in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065 would lead to the same conclusion. The Petition is accordingly allowed and made absolute in terms of prayer clause (a).

5. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the matter, the employer of the Petitioners to deposit costs of Rs.10,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)