

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5289 OF 2017**

Mr.Nitin Kantilal Oza

..Petitioner

Vs.

State of Maharashtra and another

..Respondents

Mrs.Gauri G.Joglekar, for the Petitioner.

Mrs.M.M.Deshmukh – Addl.P.P., for Respondent State.

Respondent No.2 present.

**CORAM : R. M. SAVANT, &
SARANG V. KOTWAL, JJ
DATE : 2nd MAY, 2018**

P.C.

1 The above Writ Petition has been filed for quashing of the First Information Report being No.26 of 2016 registered with the Santacruz police station on 14 January 2016 for offences punishable under Section No.420, 465, 468, 471 and 34 of the Indian Penal Code.

2 The facts giving cause for registration of the said First Information Report by Respondent No.2 are stated therein. It is not necessary to dilate on facts as the parties have amicably resolved their dispute. The Respondent No.2 has filed an affidavit cum declaration dated 12 December 2017 affirmed before Mr.Ramesh Chandra Tiwari, Advocate and Notary Government of India having his office at Appli Ekta Housing Society Nav Pada Marol Naka,

A.K.Road, Andheri (East) Mumbai. In the context of the present Writ Petition paragraph Nos.3, 4 and 5 of the said affidavit cum declaration are material and are reproduced :

“3 I say and declare that as I have received the financial compensation for the losses suffered due to his actions (Mr.Nitin Oza). I do not wish to continue with any police / legal proceedings against Mr.Nitin Oza.

4. I say that Mr.Nitin Oza has paid me the amount we reached as a mutual understanding to amicably end the matter.

5. I say and declare that I have no objection to quash FIR No.26 of 2017 lodge by me in Santacruz police station on 14/01/2016. I am making this affidavit for the sole purpose of quashing/dropping/cancelling all the police/legal proceeding against Mr.Nitin Oza in FIR no.26 of 2016 as I do not wish to continue with the same due to personal and health related reasons and my advancing age”.

3. The Respondent No.2 Anila Jawahar Barot is personally present in Court. She is identified by her Aadhaar card bearing No.357743343148. She is identified by her daughter - Dr.Noopur Jawahar Barot and her son in-law -

Dr. Sachin Mulye. When put in the box and queried she states that she has read and understood the contents of the said affidavit and that she has signed the said affidavit of her own free will and volition and that she does not want to proceed with the First Information Report in view of the settlement arrived at between the parties. The Petitioner Nitin Kantilal Ozha is also personally present in Court. He is identified by his driving license bearing No.MH-02 91 – 13158 issued on 10th June 1991 and which has expired, but he states that he has applied for a fresh driving license. Having regard to the affidavit cum declaration dated 12th December 2017 of the Respondent No.2 and the contents thereof as also having regard to the statements made by the Respondent No.2 and the Petitioner when put in the box and queried they unequivocally indicate that the parties have settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the First Information Report in question.

4. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is therefore required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the charge sheet would

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065

stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

5. The Petitioner to deposit costs of Rs.5,000/- with the Kirtikar Law Library, High Court Mumbai within six weeks from date, receipt to be obtained and filed in the Registry.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]