

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 359/2018

(DR.ABHAYKUMAR CHAGANLAL JAIN & OTHERS **VERSUS** THE STATE OF MAHARASHTRA, THR.
 PSO PS OLD CITY AKOLA & ANOTHER)

WITH

CRIMINAL WRIT PETITION NO. 360/2018

(ATUL MURLIDHAR SHEGAONKAR & OTHERS **VERSUS** THE STATE OF MAHARASHTRA, THR. PSO
 PS OLD CITY AKOLA & ANOTHER)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.J. Mirza, counsel for the petitioners in WP No.359.2018 and for R-2 in WP No.360.2018.

Shri R.D. Karode, counsel for the petitioners in WP No.360.2018 and for R-2 in WP No.359.2018 .

Mrs. K.S. Joshi, A.P.P. for the R-1 in both the writ petitions.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : APRIL 24, 2018.

The petitioners in Criminal Writ Petition No.359 of 2018 seek the quashing and setting aside of the first information report registered against the petitioners for the offences punishable under Sections 452, 336, 506, 323 and Section 34 of the Penal Code read with Section 3(i)(r)(s) and (z) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the proceedings arising therefrom. The petitioners in Criminal Writ Petition No.360 of 2018 seek the quashing and setting aside of the first information report registered against them for the offences punishable under Sections 452, 324, , 325, 323, 504, 506 and Section 34 of the Penal Code and the proceedings arising therefrom.

It is stated by the petitioners in Criminal Writ Petition No.359 of 2018 that the petitioner no.1 is a Doctor by profession and is practicing in medicine since the year 1975. The petitioner no.2 is the nephew of the petitioner no.1 and he used to assist his younger brother viz. the petitioner no.3 as the petitioner no.2 is

deaf. So also, the petitioners in Criminal Writ Petition No.360 of 2018 are carrying on business and they do not have any criminal antecedents.

It appears that there was a civil dispute between the predecessor-in-title of the petitioners in Criminal Writ Petition No.360 of 2018 and the mother of the petitioner no.1 in Criminal Writ Petition No.359 of 2018 in respect of certain easementary rights. A civil suit is pending between the predecessor-in-title of the petitioners in Criminal Writ Petition No.360 of 2018 and the mother of the petitioner no.1 in Criminal Writ Petition No.359 of 2018. It appears that the petitioners in Criminal Writ Petition No.360 of 2018 had purchased some property which is adjoining to the property of the petitioners in Criminal Writ Petition No.359 of 2018 from its erstwhile owner and since the petitioners in Criminal Writ Petition No.359 of 2018 did not have the knowledge about the said sale of the property in favour of the petitioners in Criminal Writ Petition No.360 of 2018, there was a fight and scuffle between the petitioners in Criminal Writ Petition Nos.359 of 2018 on one hand and the petitioners in Criminal Writ Petition No.360 of 2018 on the other. On the basis of the said disputes and the incident that occurred on 24.04.2017, the petitioners in both the criminal writ petitions had filed separate complaints before the respondent no.1 against each other. On the basis of the rival complaints, the respondent no.1 had registered offences against the petitioners in Criminal Writ Petition No.359 of 2018 and the petitioners in Criminal Writ Petition No.360 of 2018.

Since the petitioners in both the criminal writ petitions are the adjoining neighbours and since they have settled their disputes amicably and they wish to live in harmony in future, they have filed these separate criminal writ petitions for quashing and

setting aside the first information report registered against them in each of the writ petitions. It is stated in both the writ petitions that the petitioners in Criminal Writ Petition No.359 of 2018 were not aware that the petitioners in Criminal Writ Petition No.360 of 2018 had purchased the adjoining property and hence, the fights took place because of the misunderstanding. It is stated that the petitioners wish to reside peacefully in the locality as they are the next door neighbours.

The petitioners in both the writ petitions are personally present in the Court today. They have stated that they have settled their disputes amicably and they do not wish to proceed against each other on the basis of the respective complaints filed by them. It is stated that they are now on talking terms and they wish to reside peacefully in the neighbourhood of each other. It is stated that in the circumstances of the case, this Court may quash and set aside the respective first information reports registered against the petitioners.

After hearing the petitioners in both the writ petitions, it appears that complaints were lodged by them against each other due to the misunderstanding between them. It appears that the petitioners have settled their disputes amicably. In the circumstances of the case, with a view to prevent the abuse of the process of the Court, it would be necessary to quash and set aside the respective first information reports registered against the petitioners. Since the petitioners do not wish to prosecute against each other, it is unlikely that the prosecution would result in the conviction of the petitioners. Since the petitioners wish to live in harmony in future, it would be necessary to quash and set aside the first information reports with a view to secure the ends of justice. Hence, by relying on the law laid down by the Hon'ble Supreme

Court in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in (2014) 6 SCC 466, the first information reports registered against the petitioners in Criminal Writ Petition Nos.359 of 2018 and 360 of 2018 are liable to be quashed and set aside.

Hence, the writ petitions are allowed. The first information report registered against the petitioners in Criminal Writ Petition No.359 of 2018 for the offence punishable under Sections 452, 336, 506, 323 and Section 34 of the Penal Code read with Section 3(i)(r)(s) and (z) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the proceedings arising therefrom are quashed and set aside subject to payment of costs of Rupees Five Thousand to the High Court Legal Services Sub-Committee, Nagpur within one week. So also, the first information report registered against the petitioners in Criminal Writ Petition No.360 of 2018 for the offence punishable under Sections 452, 324, , 325, 323, 504, 506 and Section 34 of the Penal Code and the proceedings arising therefrom are quashed and set aside subject to payment of costs of Rupees Five Thousand to the High Court Legal Services Sub-Committee, Nagpur within one week.

Order accordingly. No costs.

JUDGE

JUDGE

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