

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.150 OF 2019

Sajjan Mahabaleshwar Sawant & Anr. Petitioners.
Versus
State of Goa and others. Respondents

Mr. Vibhav Rajiv Amonkar, Advocate for the Petitioners.

Mr. G. Nagvenkar, holding for Mr. S. R. Rivankar, Public Prosecutor
for Respondents No.1 and 2.

Mr. Vasudev A. Shirodkar, Advocate for Respondent No.3.

Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.

Date : 17th October, 2019.

P.C.:-

Heard Mr. Vibhav Amonkar for the Petitioners, Mr. Nagvekar, holding for Mr. S. R. Rivankar, Public Prosecutor for Respondents No.1 and 2 and Mr. Vasudev Shirodkar for Respondent No.3.

2. This is a Petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), to quash Charge Sheet No.38/2017, dated 13.5.2017 and consequent criminal proceedings launched against the Petitioners in pursuance of the same.

3. On 9.9.2019, we made the following order in this Petition:

“Mr. V. Amonkar, learned Counsel appearing for the Petitioner, on the basis of instructions from the Petitioner, states that the Petitioners without prejudice to their rights and contentions and even without accepting anything in the complaint lodged by Respondent no. 3, will tender apology to Respondent no. 3 and further, make a payment of Rs.10,000/-.

2. Mr. V. Shirodkar, learned Counsel for the Respondent no. 3 states that there is a civil suit pending between where again the parties are negotiating settlement.

3. He submits that a composite settlement would perhaps put an end to both, the civil and criminal suits pending between the parties.

4. Accordingly, he submits that this matter may be adjourned by three weeks in order to enable the parties to work out composite settlement in the matter.

5. Accordingly, we adjourn this matter to 14.10.2019.”

4. Thereafter, the matter was adjourned from time to time, to enable the parties to arrive at a full and final settlement, not only in relation to the incident which gave cause to the filing of the Criminal Case No.38/2017, but also some other disputes pending between the parties. Despite such adjournments, however, the parties have not been able to arrive at an amicable settlement, in so far as civil disputes are concerned. However, in so far as the present matter is concerned, Mr. Shirodkar, on the basis of the instructions from Respondent No.3 who is personally present in the Court, states that Respondent No.3, as a gesture of graciousness, will be satisfied if the Petitioners

tender an apology and further makes payment of Rs.10,000/- as undertaken before this Court.

5. The parties are relatives. The incident was indeed unfortunate. Petitioner No.1 who is present in the Court, has tendered an apology to Respondent No.3, who is again present in the Court.

6. The Petitioners, consistent with their undertakings, to file an affidavit in this Court latest by 22/10/2019, tendering their apologies in terms of what is recorded in our order dated 9.9.2019, after furnishing a copy of the same to Mr. Shirodkar, learned Counsel for Respondent No.3. On or before the said date, the Petitioners will also pay to Respondent No.3 an amount of Rs.10,000/- by drawing a Demand Draft or Bankers Cheque in the name of Respondent No.3. Evidence to this effect shall be annexed to the affidavit containing apologies.

7. In addition to the aforesaid, the Petitioner has offered to pay costs of Rs.5,000/-, directly to the Advocate for Respondent No.3. This will take care of the costs incurred by Respondent No.3 in these proceedings. This amount shall also be paid on or before 22/10/2019.

8. Only once this is done, the Charge Sheet No.38/2017 dated 13.5.2017 and the consequent criminal proceedings in Criminal

Case No.80/2017/C, pending before the Judicial Magistrate, First Class, Panaji will stand quashed. An authenticated copy of this order, along with the affidavit containing apologies and proof of payment, shall be filed before the Judicial Magistrate, First Class, Panaji, so that the proceedings can be indicated as finally disposed of on the basis of the same.

9. It is made clear that nothing in these proceedings shall affect the civil proceedings pending between the parties, which will have to be decided on their own merits and in accordance with law.

Nutan D. Sardesai, J.

M.S. Sonak, J.