

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

WRIT PETITION NO.4565 of 2015

Yogesh Suryakant BoradePetitioner
versus
The State of Maharashtra and anr.Respondents
with

WRIT PETITION NO.4290 of 2015

Sachin Ramchandra GholapPetitioner
versus
The State of Maharashtra and anr.Respondents

Mr. Rajendra Shirodkar along with Mr. Mihir Ghag I/b. Mr. Archit
Sakhalkar, advocate for the petitioners.
Mrs. Aruna S. Pai, APP for the State.
Ms. Bhagyashree Mangale, advocate for respondent No.2.

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

DATE : 16th APRIL, 2019.

P. C. :

The petitioner in writ petition No.4565 of 2015 is original accused No.2 and petitioner in writ petition No.4290 of 2015 is original accused No.3 in FIR bearing CR No.195 of 2015 registered with Karmala Police Station, Solapur, at the instance of respondent No.2/original complainant in writ petition No.4565 of 2015. This FIR is filed against four accused. Accused No.1 is Waman Tukaram Shinde, accused Nos.2 and 3 are the respective petitioners in above two petitions and accused No.4 is Ganesh S. Waghmare.

2. The FIR is registered for offences punishable under Sections 306, 354(D)(I), 506, 190, 201, 202, 213, 120(B), 109 and 113 of the Indian Penal Code, 1860, Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO") and Section 67(B) of the Information Technology Act, 2000. Main allegation in the FIR is against accused Nos. 1 and 4. So far as the present petitioners viz. accused Nos. 2 and 3 are concerned, the allegations are that they tried to settle the dispute between the parties and destroyed the mobile phone, in which, the conversation between accused No.1 and victim was recorded.

3. After investigation into subject FIR was completed, charge-sheet is filed in the Special Court and the same is numbered as Special Case No.82 of 2015 and it is pending before the Additional Sessions Judge/Special Judge at Barshi. The petitioners in above petition seeks quashment of the proceedings of the subject special case with the consent of the original complainant.

4. The original complainant – Padmakar Dilip Ghanvat has filed separate affidavits in the above petitions, thereby, giving no objection to quash the proceedings of the subject special case only against the present petitioners/original accused Nos.2 and 3. Wife of the deceased as well as the victim of the crime/daughter of the deceased have also

filed separate affidavits wherein they have given their consent to quash the proceedings of the subject special case qua the above petitioners by consent. The original complainant- Padmakar Dilip Ghanvat, wife of the deceased and the victim, all are present before the Court. On being questioned, they specifically stated that they have gone through the petitions as well as their respective affidavits and have fully understood the contents thereof. They further confirmed that they have given no objection for quashing the proceedings of the subject special case qua the petitioners on their own free will and without there being any pressure or coercion.

5. We have considered the allegations against the petitioners. The allegations are that they tried to settle the dispute between the parties. There are no allegations against them under POCSO. It is also not the case of the prosecution that the present petitioners abetted the suicide of the deceased – Navnath Borade. Taking into consideration these facts and also the law laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we are of the opinion that the proceedings of the subject special case deserves to be quashed and set-aside qua the petitioners. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

6. Accordingly, we quash and set-aside the proceedings of Special Case No.82 of 2015 pending before the Additional Sessions Judge/Special Judge at Barshi, arising out of registration of CR No.195 of 2015 with Karmala Police Station, Solapur, qua the petitioners, subject to payment of costs of Rs.50,000/- by each of the petitioner to **“Tata Memorial Hospital”** an institution that takes care of advanced and terminally ill cancer patients and, thereafter, produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the writ petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings of the special case shall be treated as non-est.

7. It is made clear that we have not quashed the proceedings of the subject special case against the original accused Nos.1 and 4. The prosecution of the subject case against the said accused shall continue.

8. Subject to above, the writ petitions are disposed of.

9. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]