

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 166 of 2019

Rajendrasingh Shivphersingh Thakur and ors.Petitioners
versus
The State of Maharashtra and anr.Respondents

Mr. Akhilesh Singh, advocate for the petitioners.
Ms. Sangeeta D. Shinde, APP for the State.
Mr. Parth Pandey, advocate for the respondent No.2.

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

DATE : 10th APRIL, 2019.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The petition is filed for quashing and setting-aside the proceedings of RCC No.338 of 2004, pending on the file of learned J.M.F.C., 4th Court at Vasai. The said case arises out of registration of FIR bearing C.R. No.119 of 2004 with Nallasopara Police Station, at the instance of the respondent No.2, for the offences punishable under Sections 143, 147, 447 and 427 of the Indian Penal Code, 1860.

3. Pending trial, the parties settled their dispute amicably and, in pursuance of an understanding arrived at between them, they have now

approached this Court for quashing the proceedings of the subject criminal case by consent. The respondent No.2 has filed an affidavit dated 13th November, 2018. In paragraph 3 thereof, following averments are made :

3. I say that I have no complaint against the Petitioners and that the offence of which they have been made accused are purely personal in nature arising out of personal disputes between us and absolutely no public policy involved in the nature of allegation made against the Petitioners. I say that I have no grievance against the Petitioners in relation to the aforesaid offence under question and I have no objection if the RCC No.338 of 2004 pending in the 4th court of J.M.F.C. at Vasai against them is being quashed. I say that I am filing this affidavit on my own free will, without there being any pressure or undue influence."

4. Since the shop which was alleged to be illegally demolished by the petitioners was of the ownership of the respondent No.2's sister-in-law – Mrs. Usha Satish Shetty, we directed the respondent No.2 that her consent is necessary for quashing the proceedings of the subject criminal case. The respondent No.2, accordingly, has obtained general power attorney of Mrs. Usha Satish Shetty dated 2nd April, 2019. The said power of attorney is placed on record. It shows that the said Mrs. Usha Satish Shetty has given power to the respondent No.2 to settle/compromise the said dispute.

5. The respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the petition and the affidavit as well and has fully understood the contents thereof. He further confirmed that he is giving no objection for quashing the proceedings of the subject criminal case on his own free will and without there being any pressure or coercion.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. 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.

7. Accordingly, the petition is allowed in terms of prayer clause (a) subject to payment of costs of Rs.5,000/- by the petitioners to **“Yashodhan Charitable Trust”** (having Registration No.1895/Satara, Maharashtra, Account No.60245873355 IFSC Code MAHB000305) an

institution that takes care of mentally retarded and elderly people in the downtrodden society. The petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the petition shall stand dismissed automatically without further reference to the Court and the order quashing the criminal proceedings shall be treated as *non-est*.

8. Subject to above, the writ petition stands disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]