

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL WRIT PETITION NO. 4318 OF 2018**

1. Abu Asim Azmi
Age:- 60 Years. Occ- Business
& Member of Legislative Assembly
R/o. 4/25, First Floor, Kamal Mansion
Arthur Bandar Road, Coloba,
Mumbai- 400 105.

2. Nadeem Ahmed Sufiyan Ahmed
Age- 40 Years, Occ- Business
R/o. 4/25, First Floor, Kamal Mansion
Arthur Bandar Road, Coloba,
Mumbai- 400 105.

...Petitioners

Versus

1. The State of Maharashtra
Through the Police Station Officers
Talasari Police Station
Dist. Palghar.

2. Laxman Jivya Daware
Age- 45 Years,
R/o. Mu. Po. Dongri,
Vilat Pada, Tq. Talasari,
Dist. Palghar.

...Respondents

WITH**CRIMINAL WRIT PETITION NO. 4319 OF 2018**

1. Abu Asim Azmi
Age:- 60 Years. Occ- Business
& Member of Legislative Assembly
R/o. 4/25, First Floor, Kamal Mansion
Arthur Bandar Road, Coloba,
Mumbai- 400 105.

2. Nadeem Ahmed Sufiyan Ahmed
Age- 40 Years, Occ- Business

R/o. 4/25, First Floor, Kamal Mansion
Arthur Bandar Road, Coloba,
Mumbai- 400 105.

...Petitioners

Versus

1. The State of Maharashtra
Through the Police Station Officers
Talasari Police Station
Dist. Palghar.

2. Chandru S/o. Rama Thapad,
Age- 41 Years, Occ- Labourer
R/o. Dongri Vilathpada,
Tq. Talasari, Dist. Palghar.

...Respondents

WITH

CRIMINAL WRIT PETITION NO. 4320 OF 2018

1. Abu Asim Azmi
Age:- 60 Years. Occ- Business
& Member of Legislative Assembly
R/o. 4/25, First Floor, Kamal Mansion
Arthur Bandar Road, Coloba,
Mumbai- 400 105.

2. Nadeem Ahmed Sufiyan Ahmed
Age- 40 Years, Occ- Business
R/o. 4/25, First Floor, Kamal Mansion
Arthur Bandar Road, Coloba,
Mumbai- 400 105.

...Petitioners

Versus

1. The State of Maharashtra
Through the Police Station Officers
Talasari Police Station
Dist. Palghar.

2. Sitra Jiu Thapad,
Age- 50 Years,
R/o. Mu. Po. Dongri,
Vilat Pada, Tq. Talasari,
Dist. Palghar.

...Respondents

Mr. Mohsin Khan Latif Khan Pathan, for petitioner.

Mr. Shaikh Usman, for respondent no. 2.

Mrs. Rutuja Ambekar, APP for State.

CORAM : S. S. Shinde J.

DATED : 12th June, 2019

Judgment:-

1. Rule. Rule made returnable with the consent of parties.
2. Learned counsel appearing for respondent no. 2 has tendered across bar affidavit. It is stated in the said affidavit that the compliant filed before the Sessions Court, Palghar was out of misunderstanding. Respondent no. 2 has filed withdrawal purshis before Sessions Court, Palghar stating that petitioners are not having any concern with Respondent no. 2. He is working under contract and there were payment dispute between Respondent no. 2 and contractor and the said contractor has already paid entire amount of the work done by him.
3. In the averments in the affidavit are read in its entirety, it appears that the said complaint was filed by Respondent no. 2 out of misunderstanding and the offences alleged in the complaint have not taken place.
4. Respondent No. 2 is present before the Court. On interacting with him, he stated that the affidavit filed by him stating that the complaint filed against the petitioner was out of misunderstanding is his voluntary act. He is not forced by anybody to file such affidavit.
5. Upon perusal of the statement of the petitioner made before the Sessions Court, Palghar, there are no allegation made against the petitioner that,

the petitioner abused complainant on caste.

6. In the light of averments in the affidavit of Respondent No. 2, and the fact that Respondent no. 2 has already filed withdrawal purshis before Sessions Court and one of the offence under section 3 (1) (r) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not attracted on going through the statement made before the Sessions Court, Palghar. This court is of the opinion that continuation of further proceedings being Sessions Case No. 96 of 2017, Sessions Case No.94 of 2017 and Sessions Case No.95 of 2017 would tantamount to abuse of process of Court. Respondent no. 2 in all the cases is not going to support the allegations made in the complaint, and therefore, further continuation of proceedings would be exercise in futile and wastage of valuable time of the Court. In that view of the matter application deserves to be allowed.

7. Additional Sessions Judge, Palghar shall allow the Respondent no. 2 to withdraw the cases filed by them.

8. Rule made absolute in above terms and petitions stand disposed of accordingly.

[S.S. SHINDE, J.]