

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.65/2020

1. Mr. Manjunath Pujari,
S/o Nagappa Pujari,
Major of age, Businessman,
C/o Timeline Media Pvt. Ltd.
401, 4th Floor,
Dukle Arcade, St. Inez,
Panaji-Goa

2. Mr. Arjun Pujari,
S/o Manjunath Pujari,
Major of age, Businessman,
C/o Timeline Media Pvt. Ltd.
401, 4th Floor,
Dukle Arcade, St. Inez,
Panaji-Goa.

... Petitioners

V/s.

1. State of Goa
Through Public Prosecutor
High Court of Bombay at
Panaji-Goa

2. Panaji Town Police Station
Panaji-Goa

3. Mr. Shrinivas Nayak,
Major of age,
R/o 'Shri Ramnath';
C6 Ocean Park, Ilhas,
Dona Paula-Goa

4. Mrs. Ashiwini Nayak,
Major of age,
R/o 'Shri Ramnath';
C6 Ocean Park, Ilhas,
Dona Paula-Goa.

... Respondents

Mr. Dharmanand Vernekar, Advocate for the Petitioners.

Mr. Pravin Faldessai, Additional Public Prosecutor for the State-Respondents No.1 and 2.

Mr. Parag Rao, Advocate for the Respondents No.3 and 4.

***Coram : DIPANKAR DATTA, CJ. &
M. S. SONAK, J.***

Date:- 18th December, 2020

ORAL JUDGMENT (Per M.S. Sonak, J.)

Heard Mr. Dharmanand Vernekar for the Petitioners, Mr. Pravin Faldessai, Additional Public Prosecutor for the State-Respondents No.1 and 2 and Mr. Parag Rao for the Respondents No.3 and 4.

2. Rule. Rule is made returnable forthwith at the request of and with the consent of the learned counsel for the parties. The petitioners seek the quashing of FIR No.141/2018 dated 28.06.2018 and the consequent charge-sheet No.141/2018 dated 31.08.2018 filed in the Court of Judicial Magistrate, First Class at Panaji.

3. Mr. Vernekar, learned counsel for the petitioners contends that

the petitioners and the respondents no.3 and 4, the original complainants based on whose complaint the FIR came to be lodged have settled the differences amongst themselves in an amicable manner. He points out that the terms of such settlement have also been set out in the consent terms filed by the parties in Regular Civil Suit No.68/2018/B in the Court of the Ad-hoc Senior Civil Judge at Panaji. He points out that in such consent terms, the parties have agreed to withdraw several complaints and cases filed by them against each other. He points out that the complaint on basis of which the impugned FIR came to be registered, is also one of the complaints which the respondents no.3 and 4 have agreed to withdraw. Mr. Vernekar submits that the complaints have a civil profile and now that the disputes are already settled, the impugned FIR and the consequent impugned charge-sheet be quashed in the exercise of this Court's extraordinary jurisdiction as well as inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

4. Mr. Faldessai, learned Additional Public Prosecutor leaves the determination to this Court now that the parties have settled the disputes amongst themselves in an amicable manner. He however points out that the parties, have consumed substantial judicial time by filing complaints and cross-complaints against one another.

5. Mr. Rao, the learned counsel for respondents no.3 and 4 submits

that the respondents whom he represents do not wish to pursue the complaints against the petitioners and therefore, will have no objection if Rule is made absolute in terms of prayer clauses (a) and (b) to this petition.

6. The impugned FIR and the consequent impugned charge-sheet had alleged the commission of offences under Section 447, 448, 453 and 427 read with Section 34 of the Indian Penal Code. The dispute between the parties was in the context of premises bearing No.401, Dukle Arcade, St. Inez, Panaji, Goa and two parking lots connected to such premises. The disputes resulted in filing of both civil as well as criminal actions by the petitioners and respondents no.3 and 4 against one another.

7. Record indicates that the petitioners had instituted Regular Civil Suit No.68/2018/B against the respondents no.3 and 4 in relation to this very dispute concerning the above referred premises. Ultimately, the petitioners and respondents no.3 and 4 filed consent terms in this Civil Suit, which was disposed of by Consent Decree dated 30.07.2019.

8. If the Consent Decree dated 30.07.2019 is perused, then, it is clear that the parties had agreed to withdraw several actions instituted by them against each other. The impugned FIR and the consequent

impugned charge-sheet is one such action which the respondents no.3 and 4 had agreed not to pursue any further.

9. Since, the disputes between the parties, which had predominantly a civil profile, have been settled in an amicable manner, there is no point in permitting the prosecution of the petitioners to continue any further. According to us, it would therefore be in the interest of justice if Rule in this petition is made absolute in terms of prayer clauses (a) and (b) thereof.

10. However, we take cognizance of the submission made by the learned Additional Public Prosecutor that both the petitioners and respondents no.3 and 4 consumed valuable judicial time on account of their disputes. Therefore, this is a fit case, where, both the petitioners as well as the respondents no.3 and 4 should be made to pay some costs in favour of the Goa State Legal Services Authority.

11. Mr. Vernekar and Mr. Rao, the learned counsel for the petitioners and respondents no.3 and 4 respectively state that the parties whom they represent will pay an amount of ₹10,000/- each in favour of the Goa State Legal Services Authority within a period of two weeks from today. This statement is accepted and in compliance thereof, the petitioners are directed to pay to the Goa State Legal Services Authority an amount of ₹10,000/- so also, the respondents

no.3 and 4 are directed to pay to the Goa State Legal Services Authority an amount of ₹10,000/-, within a period of two weeks from today.

12. Subject to the compliance with the order for payment in favour of the Goa State Legal Services Authority as aforesaid, the Rule in this petition is made absolute in terms of prayer clauses (a) and (b) which read as follows:

“a. Quash and set aside the FIR Registered No.141/18 by the Respondent No.2 on 28/06/2018 against the present petitioners.

b. Quash and set aside the Charge Sheet dated 31/08/2018 bearing charge sheet no.141/2018.”

13. The Rule in this petition is disposed of in the aforesaid terms.

14. All concerned to act on the basis of an authenticated copy of this Order.

M. S. SONAK, J.

CHIEF JUSTICE