

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 4 OF 2020**

NEELAM AJIT PHATARPEKAR AND
2 ORS.,

... Petitioners

Versus

STATE OF PUNJAB, THR. ITS CHIEF
SECRETARY AND 5 ORS.,

... Respondents

Mr. Surendra G. Desai, Senior Advocate with Ms. Shalaka Shelke,
Advocate for the Petitioner.

Mr. S. R. Rivankar, Public Prosecutor for Respondent No. 3.

Mr. S. Samant, Advocate for Respondents no. 6, 7 and 8.

**Coram : M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.**

Date : 5th March, 2020.

Oral Order: (Per M. S. Sonak, J.)

Heard Mr. S. G. Desai, the learned Senior Advocate for the Petitioners, Mr. S. R. Rivankar, the learned Public Prosecutor for Respondent no. 3 and Mr. S. Samant, the learned Counsel for the Respondents no. 6, 7 and 8.

2. Mr. Desai, the learned Senior Advocate for the Petitioners and Mr. S. Sawant, the learned Counsel for the Respondents no. 6, 7 and 8, hand in Minutes To Order which are taken on record and are marked as 'X' for the purpose of identification.

3. These Minutes are signed by the 3 Petitioners and by Respondent no. 8, Ms. Eesha Arora *alias* Eesha Phatarpekar. The learned Counsel for the parties assure this Court that Ms. Eesha Arora *alias* Eesha Phatarpekar is the duly constituted attorney for Respondent no. 6 and is the mother of Respondent no. 7 who is a minor aged about 9 years.

4. Ms. Eesha Arora *alias* Eesha Phatarpekar, the Respondent no. 8, is present in the Court and she confirms the aforesaid. She says that she has signed these Minutes voluntarily and after considering their scope and import.

5. The Petitioners no. 1 and 2 are present in the Court. The Petitioner no. 3 is the wife of Petitioner no. 2. Further, the Petitioner no. 2 holds Power of Attorney on behalf of Petitioner no. 3. The Petitioners no. 1 and 2 also state that they have signed these Minutes voluntarily after considering their scope and import.

6. Upon our query as to the interest of Respondent no. 7 who is a minor, the learned Counsel for the parties have referred us to clause 1 of the Minutes which reads as follows:

'1. The petitioners hereby transfer irrevocably unto the Respondent no. 7 through Respondent no. 8 all that new shop No. 3 on Ground Floor, Admeasuring 450 sq.ft. carpet area on the ground floor and 350 sq.ft. in the basement, in Parmar Co-operative Housing Society Ltd., Paranjape B Scheme, 1st road, Vile Parle (East), Mumbai-400057, registered in the name Shri. Ajit Ramakant Phatarpekar the deceased husband of the 1st Petitioner and father and father-in-law of the Petitioners nos. 2 and 3 which transfer the Respondent nos. 6, 7 and 8 hereby accept in full and final settlement of all their claims individually or jointly to the estate left behind by the deceased Shri. Ajit Ramakant Phatarpekar in India and they hereby declare that the said estate belongs completely and exclusively to the petitioners and that they have no right, title or interest to the same or have relinquished, given up, surrendered their right, title and interest therein if and in favour of the petitioners.'

7. Mr. Desai submits that the value of the said shop will be in the range of around Rs. 4-5crore. Mr. Samant submits that present rent of approximately Rs.1,40,000/- is derived from the said shop and w.e.f. 01.03.2020, this rent will become payable to the

Respondent no. 8 in her capacity as natural guardian of Respondent no. 7.

8. We inquired from the Respondent no. 8 as to whether she has any intention of selling or creating any encumbrances on the shop which is referred in aforesaid paragraph 1 of the Minutes. She has stated that until Respondent no. 7 attains majority, she will not sell or otherwise unnecessarily encumber this shop so as to prejudice the interest of the Respondent no. 7 who is presently a minor. In fact, she has said that she undertakes not to sell this shop until the Respondent no. 7 attains the age of majority so that the interest of Respondent no. 7 who is a minor is fully protected.

9. From the perusal of the record, we find that this was basically a dispute amongst family members, which led to the registration of FIR. In such circumstances, we see no difficulty in quashing the FIR no. 129/2019 registered against the Petitioners.

10. Accordingly, we dispose of this Criminal Writ Petition in terms of the Minutes handed in. The parties, i.e. the Petitioners and the Respondents no. 6, 7 and 8 shall abide by the Minutes as also the Undertaking given to this Court, particularly, in relation to the property to now be allotted to the Respondent no. 7, the minor daughter.

11. We formally quash the FIR no. 129 of 2019 registered at Fazilka City Police Station, State of Punjab.

12. The Petition is disposed of in the aforesaid terms.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

msr.