

Mandira
Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.92 OF 2020

- | | | | |
|-----|----------------------------------|---|-----------------------|
| 1. | Ganpat Kundlik Jadhav, |] | |
| | Aged Adult, |] | |
| | |] | |
| 2. | Kamlakar Bhikaji Nathe, |] | |
| | Aged Adult, |] | |
| | |] | |
| 3. | Dashrath Baban Aher, |] | |
| | Aged Adult, |] | |
| | |] | |
| 4. | Ramesh Sadashiv Jadhav, |] | |
| | Aged Adult, |] | |
| | |] | |
| 5. | Ashok Bhivaji Nathe, |] | |
| | Aged Adult, |] | |
| | |] | |
| 6. | Parshuram Nivrutti Nathe, |] | |
| | Aged Adult, |] | |
| | |] | |
| 7. | Rambhau Nivrutti Nathe, |] | |
| | Aged Adult, |] | |
| | |] | |
| 8. | Kailas Laxman Nathe, |] | |
| | Aged Adult, |] | |
| | |] | |
| 9. | Vijay Keru Nathe, |] | |
| | Aged Adult, |] | |
| | |] | |
| 10. | Dattu Murlidhar Aher, |] | |
| | Aged Adult, |] | |
| | All R/at Gonde Dumala, |] | |
| | Tal. Igatpuri, Dist. Nashik |] | .. Petitioners |

VERSUS

- | | | | |
|----|----------------------------------|---|-----------------------|
| 1. | The State of Maharashtra, |] | |
| | Through Police Inspector, |] | |
| | Wadiwarhe Police Station, |] | |
| | Tal. Igatpuri, Dist. Nashik |] | |
| | |] | |
| 2. | Shantaram Sukdev Kajale, |] | |
| | Aged Adult, Occ. Service, |] | |
| | R/at Row House No.5, |] | |
| | Kailas Garden, PathardiPhata, |] | |
| | Nashik |] | .. Respondents |

Mr.Sachin Gite for the Petitioners.

Ms.Chaitrali Deshmukh i/b Mr.Yatin S. Kochare
for Respondent No.2.

Respondent No.2 present in person.

Mrs.S.D.Shinde, APP for the Respondent/State.

**CORAM : S.S.SHINDE &
MANISH PITALE, JJ.**

DATED : 11th FEBRUARY, 2021.

ORAL JUDGMENT (PER S.S.SHINDE, J.)

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.

2. Learned counsel appearing for the petitioners and respondent Nos.2 submit that parties have amicably settled the dispute and have entered into compromise terms. The comprise terms, signed by the petitioners and respondent No.2, are placed on record.

3. Respondent No.2 is personally present before this Court. He states that it is his voluntary act to enter into settlement and pray for

quashing of the charge-sheet. The parties are identified by their respective counsels.

4. In view of the settlement between the parties, respondent No.2 is not going to support the prosecution case and, therefore chances of the petitioners would be remote and bleak.

5. The Hon'ble Supreme Court in the case of **Gian Singh v. State of Punjab and Another**¹ has held that, the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It has also held that inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

6. Since the petitioners and respondent No.2 have amicably

¹ 2012 (10) SCC 303

settled the dispute, we are inclined to allow this petition as respondent No.2 is not going to support the prosecution case and chances of conviction of the petitioners would be bleak and, therefore, continuation of proceedings before the concerned Court, would be an exercise in futility.

7. In that view of the matter, to secure the ends of justice and to prevent the abuse of the process of the said Court, the petition deserves to be allowed.

8. The writ petition is allowed in terms of prayer clause (a), which reads as under :-

“a] This Hon’ble Court may be pleased to quash and set aside the charge sheet No.97 of 2015 filed by the Respondent No.1 before the Learned Judicial Magistrate, First Class, Igatpuri, Tal Igatpuri, Dist Nashik, in respect of First Information Report No.I-93/2015, registered at Wadiwarhe Police Station, Tal. Igatpuri, Dist. Nashik for the offences punishable under sections 143, 149, 448, 323, 504 and 506 of the Indian Penal Code on such terms and condition, as this Hon’ble Court may be deem fit and proper.”

9. The writ petition stands disposed of in the above terms.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)