

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.517 OF 2021

- | | | |
|----|------------------------------------|---------------------|
| 1] | Shivaji Maruti Karande |] |
| | Age 58 Yrs. Occ : Business |] |
| | |] |
| 2] | Rushikesh Sunil Karande, |] |
| | Aged 23 Yrs. Occ : Business |] |
| | |] |
| 3] | Prathamesh Shivaji Karande |] |
| | Age 24 Yrs. Occ : Business |] |
| | |] |
| 4] | Shailesh Sunil Karande, |] |
| | Aged 23 Yrs. Occ : Business |] |
| | |] |
| 5] | Maruti Shripati Karande |] |
| | Age 80 Yrs. Occ : Nil |] |
| | |] |
| 6] | Usha Shivaji Karande, |] |
| | Aged 50 Yrs. Occ : Business |] |
| | |] |
| 7] | Sunil Maruti Karande, |] |
| | Aged 49 Yrs. Occ. Husiness |] |
| | |] |
| | All R/at Manohernager, Satyajkamal |] |
| | Colony, Talegaon Dhabhade, |] |
| | Tal. Maval. Dist. Pune. |] |
| | |]..... Petitioners. |

Versus

- | | | |
|----|-----------------------------------|---|
| 1] | The State of Maharashtra |] |
| | (Through Police Inspector, |] |
| | Talegaon Dhabhade Police Station, |] |
| | Pune]. |] |
| | |] |
| 2] | Popat Vitthal Surve, |] |
| | Aged 55 Yrs. Occ. Business, |] |
| | R/o. Plot No.24, Manohar Nagar |] |
| | Talegaon Dhabhade, Tal. Maval |] |
| | Dist. Pune. |] |
| | |] |

- 3] Aditya Popat Surve,]
 Aged 27 Yrs. Occ. Service]
 R/at As above]
]
 4] Sujata Popat Surve]
 Aged 54 Yrs. Occ. Household]
 R/at As above.]..... Respondents.

ALONG WITH
 CRIMINAL WRIT PETITION NO.520 OF 2021

- 1] Aditya Popat Surve,]
 Aged 27 Yrs. Occ. Service]
]
 2] Popat Vitthal Surve,]
 Aged 54 Yrs. Occ. Business,]
]
 Both the Applicants R/at “Krushnai”, Plot No.24,]
 Manoharnagar Talegaon Dabhade-Chakan Road]
 Talegaon Dabhade, Tal. Maval, District Pune]
 Pin-410507]..... Petitioners.

Versus

- 1] State of Maharashtra through]
 Sr. Inspector, Talegaon Dabhade Police Station]
 Tal. - Maval, District Pune]
]
 2] Sunil Maruti Karande]
 Age : 46 years, occ : Business]
 R/at : - Satyakamal Colony, Plot No.14]
 Talegaon Dabhade Station, Tal. Maval,]
 District Pune, Pin – 410507]..... Respondents.

Mr. Vijay Killedar for the Petitioner in Writ Petition No.517 of 2021 and for Respondent No.2 in WP No.520 of 2021.

Mr. Vasim Shaikh i/by Mr. Prashant More for the Petitioner in Cri. WP No.520 of 2021 and for Respondent Nos.2, 3 and 4 in WP No.517 of 2021.

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

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

Reserved on : 11th FEBRUARY 2021

Pronounced on : 16th FEBRUARY 2021

COMMON JUDGMENT : (PER S S SHINDE, J)

1 Rule in both the Criminal Writ Petitions. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the parties.

2 Both the Writ Petitions arise from the counter cases filed by the Petitioners in both the Petitions against each other. It appears that the said FIRs lodged by the Petitioners against each other on account of business rivalry.

3 In so far as FIR No.576 of 2020 dated 03/11/2020 is concerned, the same has been filed by Petitioner No.5 in Writ Petition No. 517 of 2021 viz. Sunil Maruti Karande against the Petitioners in Writ Petition No.520 of 2021 with Talegaon Dabhade Police Station for the offences punishable under Sections 326, 452, 338, 504, 506 r/w 34 of the Indian Penal Code.

4 In so far as FIR No.577 of 2020 dated 03/11/2020 is concerned, the same has been filed Petitioner No.1 in Writ Petition No.520 of 2021 viz. Aditya Popatrao Surve against the Petitioners in Writ Petition No.517 of 2021 with Talegaon Dabhade Police Station for the offences punishable under Sections 326, 143, 144, 147, 149 and 506 of the Indian Penal Code.

5 It is submitted that the both FIRs have been lodged by the Petitioners in both the Petitions against each other and their family members. The Petitioners in Writ Petition 517 of 2021 came to be arrested in connection with Crime No.577 of 2020, and therefore, they approached this Court by way of Bail Application Stamp No.4884 of 2020, which application came to be allowed by this Court (Coram Smt. Bharati Dangre, J) by order dated 01/12/2020 on the conditions mentioned in the said order.

6 The Petitioners in Criminal Writ Petition No.520 of 2021 has filed Anticipatory Bail Application Stamp No.4888 of 2020 on the apprehension of their arrest in connection with FIR No.576 of 2020. By order dated 17/11/2020 this Court (Coram ; Milind N Jadhav, J) directed the police authorities that in event of arrest of the applicants i.e. the Petitioners in Writ Petition No.520 of 2021 in with connection FIR No.576 of 2020, they be released on bail by executing PR bond in the sum of Rs.50,000/- each with one or two solvent sureties in the like amount. Both the learned counsel appearing for the respective parties in the said application viz. Mr. Vijay Killedar and Mr. More jointly made a statement and this Court in paragraph 8 of the said order dated 17/11/2020 recorded the said statement which is reproduced herein under for ready reference :-

“Apart from this, both Mr. Vijay Killedar and Mr. More, learned Advocates appearing for the warring parties jointly submitted that both the parties have reconciled

their differences and decided to compromise and settled the matter.”

7 It is submitted by the learned counsel appearing for both the parties that the parties are residents of the same vicinity. It is also submitted that as both the parties and their family members had to face tough situation and lots of sufferance, it was decided inter-se between the parties to explore the possibilities of settlement. It is also submitted that both the parties have amicably resolved/settled the dispute and decided to seek quashing of both the FIRs filed against each other. Both the parties have reduced the terms of the settlement styled as Tadjodnama (Consent Terms/Ters of Settlement) on 16/11/2020, copy of which is annexed to both the Petition. The terms and conditions of the said settlement are reproduced herein under for ready reference:

“1 The parties herein agree and confirm that, party of the first part and party of the second part shall withdraw the cross complaints viz. FIR No.376/2020 and the FIR No.377 lodged with Talegaon Police Station unconditionally and in lieu of zero consideration.

2 The parties herein agreed and confirm that, based on allegations as set out under FIR No.376/2020 and the FIR No.377 none of the parties shall claim any monetary damages and or alike claims against each other.

- 3 The parties further agreed and decided that, neither the party of the first party or the party of the second part and or his family members would socially defame each other in the backdrop of eventualities occurred in the light of untoward incident of 03.11.2020,
- 4 The parties agreed that, neither the party of the first part nor the party of the second part shall do any kind of an act incriminating each other or the family members in any criminal or alike kind of an act.
- 5 The parties agreed that, neither the party of the first part nor party of the second part and or his family members raise any kind of business aggression against each other.
- 6 The parties confirm that, neither the party of the first part nor the party of the second part and or his family members shall keep any vendetta against each other taking up the rack up disputable issues.
- 7 The parties herein record that, neither the party of the first part nor the party of the second part and or his family members would treat each other as rivals and maintain the cordial terms forever.”
- 8 The learned counsel appearing for both the parties jointly submit that the parties have amicably settled their disputes and to that effect consent terms/settlement terms have been arrived at between the both the parties and to that effect individual affidavits of the accused and the informants have been

filed before this Court. The gist of the said affidavits is that both the parties are the neighbour, and after realizing that the crimes registered against each other were due to misunderstanding, they have decided to resolve/settle the dispute amicably and accordingly they have entered into the Consent Terms of Settlement dated 16/11/2020. It is also stated in the said affidavits that the disputes between the parties are comprehensively settled and they do not want to proceed with the criminal cases lodged against each other. It is further stated in the said affidavits that they voluntarily agreed with all the terms and conditions of the consent terms and there is no coercion, undue influence or force for arriving at the settlement.

9 In view of settlement arrived between the parties, no fruitful purpose will be served by continuing the further investigation of FIRs being Nos. 576 of 2020 and 577 of 2020 registered with Talegaon Dabhade Police Station by the parties against each other. The injuries sustained by both the sides are simple in nature and the ingredients of Section 326 of the Indian Penal Code are not attracted.

10 The Supreme Court in the case of **Giansingh 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,

¹ 2012 (10) SCC 303

mercantile, civil, partnership or such like transactions or the offence 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 is further held that, as 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.

11 In the light of discussion in foregoing paragraphs, it is abundantly clear that parties are not going to support the allegations made against each other in both the FIRs and further continuation of investigation of the impugned FIRs would tantamount to the abuse of the process of the Law/Court. Since the first informants are not going to support the allegations in the FIR the chances of the conviction of the accused would be remote and bleak.

12 It is pertinent to note at this stage that though the parties have resolved/settled their dispute between them and approached this Court for quashing of the FIRs lodged against each other, the police machinery has been used in the process of lodging the FIRs and investigating the crimes, and therefore it would be appropriate to direct both the parties to deposit costs of Rs.10,000/- (Rupees Ten Thousand only) each side to the Children's Aid Society, Mumbai who in turn transfer the said costs to the New & Additional Children's Home, Mankhurd, Mumbai.

13 In that view of the matter, Writ Petition No.517 of 2021 is allowed in terms of prayer clause (b) and Criminal Writ Petition No.520 of 2021 is allowed in terms of prayer clause (a) which read thus :-

Prayer clause (b) in Criminal Writ Petition No.517 of 2021

(b) That this Hon'ble Court be pleased issue writ of mandamus or writ, order or direction in the nature of writ of mandamus and thereby be pleased to quash and set aside Crime Register No.577 of 2020 registered at Talegaon Dhabhade Police Station, Pune.

Prayer clauses (a) in Criminal Writ Petition No.520 of 2021

(a) After going through the documents appended herewith

and upon being heard the parties to the present Writ Petition on merits, the Writ of Certiorari or any other appropriate Writ in the nature of Certiorary under Article 226 of the Constitution of India, may kindly ordered to be issued and by setting out the inherent powers as conferred under Sec.482 of the Cr.PC., the FIR 576 of 2020 lodged by the Respondent No.2 with Talegaon Dabhade Police Station may kindly be ordered to be quashed.

14 The Petitioners in both the Criminal Writ Petitions to deposit costs of Rs.10,000/- (Rupees Ten Thousand only) each side in the Bank of Children's Aid Society, Mumbai details of which are as under:-

Name of Bank of Account : Children Aid Soc Donation

Bank Account No. :02370100005612

Bank Name : UCO Bank

Branch : Matunga Mumbai

IFS Code : UCBA0000237

On the costs being deposited by the Petitioners in both the Petitions in the aforesaid Bank Account, the Children Aid Society, Mumbai shall immediately transfer the said amount of costs to the New and Additional Children's Home, Mankhurd, Mumbai. Payment of aforesaid costs is a condition precedent.

15 Rule in the both the Criminal Writ Petitions is made absolute to

the above extent and both the Criminal Writ Petition stands disposed of accordingly.

16 It is made clear that the effect of this order will come into force after depositing the costs as afore-stated by the Petitioners to the Children Aid Society Mumbai.

[MANISH PITALE, J]

[S. S. SHINDE , J]