

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.6118 OF 2019

Ezriel Raymond Penkar & Ors.

... Petitioners

Vs.

State of Maharashtra & others

... Respondents

Mr.Ujjwal Gandhi i/b Ms.Gunjan Thakkar for the Petitioners
Mr.S.R. Shinde, APP, for Respondent – State
Mr.Rahul Karnik for Respondent No.3

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

DATED: JULY 20, 2021

P.C.:

1. This Writ Petition under Article 226 of the Constitution of India is filed praying therein to quash C.R. No.55 of 2018 registered by MIDC police station for the offences punishable under sections 406, 409, 420, 120B, 467, 468, 471 and 34 of the Indian Penal Code, on the basis of the alleged amicable settlement between the petitioner and respondent No.3 i.e., the informant.
2. The learned Counsel appearing for the petitioner submitted that the petitioners have paid Rs.1,55,00,000/- to Respondent

No.3 towards full and final settlement of the dispute. It is submitted by the learned Counsel appearing for the petitioners that Respondent No.3 is ready for amicable settlement and he has already filed the affidavit before this Court. The entire dispute is civil in nature and, therefore, the impugned First Information Report may be quashed on the basis of such amicable settlement.

3. The learned Counsel appearing for Respondent No.3 submitted that Respondent No.3 is now not agreeable for amicable settlement since the petitioner has not complied with the terms contained in Memorandum of Understanding, which is accompanied with the affidavit filed by Respondent No.3.

4. We have given due consideration to the submissions of the learned Counsel appearing for the petitioners and Respondent No.3 and also perused the grounds taken in the petition, the annexures thereto. The petitioners have prayed for quashing the impugned First Information Report on the basis of the amicable settlement between the petitioners and Respondent No.3. However, the learned Counsel appearing for Respondent No.3, on instructions, submitted that Respondent No.3 is not ready for amicable settlement. In that view of the matter, we cannot force

respondent No.3 to agree for amicable settlement and give consent for quashing the impugned First Information Report. It should be a voluntary act of the parties with their volition to agree for the settlement without any duress or coercion.

5. For the reasons aforesaid, we are unable to persuade ourselves to quash the impugned First Information Report on the basis of amicable settlement. However, we clarify that in case, respondent No.3 is agreeable in future for amicable settlement or the petitioners wish to challenge the First Information Report on merits, the petitioners will be at liberty to do so and rejection of this petition shall not be construed as an impediment to resort to an appropriate remedy as available in law.

6. With the above observations, the petition is rejected.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)

VISHWANATH
SATYANARAYANA
SHERLA
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Date: 2021.07.27
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