

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

CRIMINAL WRIT PETITION NO.682 OF 2020

Dinesh Jethabhai Patel

...Petitioner

Versus

1. The State of Maharashtra
2. The Sr. Inspector of Police
3. Mr. Amol Parshuram More

...Respondents

WITH

CRIMINAL WRIT PETITION NO.683 OF 2020

1. Pravin J. Patel
2. Pinkesh S. Patel

...Petitioners

Versus

1. The State of Maharashtra
2. The Sr. Inspector of Police
3. Mr. Amol Parshuram More

...Respondents

...

Mr. Shashikant Chaudhari i/b. Maharashtra Law Associates for the
Petitioners.

Mr. J.P. Yagnik, APP for Respondent No.1-State.

Mr. Pranot P. Pawar for Respondent No.2

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

ORDER DATED : 2nd FEBRUARY, 2022.

P.C. :

1. These are the petitions moved by the Petitioners for

quashing of the FIR dated 19/10/2019 registered as C.R. No.238 of 2019 for the offences punishable under Sections 420, 504 and 506 r/w 34 of the IPC at Ichalkaranji, District-Kolhapur and criminal case R.C.C. No.471 of 2021 pending before learned Judicial Magistrate Court at Ichalkaranji, District-Kolhapur.

2. It is alleged that the Petitioners are having their company in the name of Suvarna Group near Nirama Hospital, Ring Road, Ichalkaranji. Through the said firm the Respondent No.3-Complainant manufactures gray material clothes and sells in the market.

3. It is alleged that the Complainant's friend Mr. Sudhakar Menon visited the Complainant's firm at Ichalkaranji and introduced Complainant with Mr. Dinesh Jethabhai Patel, Pravin Jethabhai Patel and Pinkesh Sureshbhai Patel. At that time, Pinkesh Patel has gained the trust of the Complainant and requested to send gray clothes material to their Chanakya International Company. It is alleged that the Complainant through Shiv Shankar Roadlines, Supreme Transport Solutions, Sunrise Travels sent gray clothes material at

Chanakya International. It is alleged that the Complainant has submitted the purchase order, textiles sales bill, transport receipts along with Accounts statements to police amounting to Rs.1,02,09,366/-.

4. It is alleged that the Complainant time and again requested for said payment to Mr. Dinesh Jethabhai Patel, Pravin Jethabhai Patel and Pinkesh Sureshbhai Patel upon mobile No.9825755050 and also upon email but said was neglected by the accused persons.

5. It is alleged that Complainant along with his brother in law Santosh Suraj Godse Friend Giner, Manoj Mehta visited the address mentioned at Gujarat and asked for payment of alleged textiles bills with accused, issued threats towards Complainant and told him to forget the said amount as accused are having their higher links. The police thereupon registered the offence, which is sought to be quashed and set aside by the present proceedings.

6. We have heard learned counsel for the respective parties.

7. Learned counsel for the Petitioners draws attention of this

Court to the consent affidavit filed by Respondent No.3 dated 23/12/2021. In the said affidavit it is stated that the dispute between the parties has been settled and the Petitioners have agreed to pay Rs.48,54,683/- to the Respondent No.3 as a full and final settlement. It is further stated that at the time of signing the consent affidavit, the Respondent No.3 has received pay order No.543179 dated 22/12/2021 of Rs.24,00,000/- and also received pay order No.543181 dated 22/12/2021 of Rs.24,54,683/- drawn on DCB Bank-Surat. Thus, learned counsel for the Petitioners submits that as the matter has already been settled, this Court may consider the prayer of the Petitioners to quash and set aside the FIR in question of proceedings arising out of the said FIR.

8. Learned counsel for Respondent No.3 is not disputing the above stated facts and reiterated the request made by the learned counsel for the Petitioners for quashing of the FIR.

11. In the aforesaid backdrop and after going through the contents of the FIR and the allegations made in the FIR it is revealed that no element of public law is involved in the present matter and as

the Petitioners have agreed to pay the amount to Respondent No.3, it would be a futile exercise to allow the trial to continue.

12. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of ***Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582]***, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforesaid fact-situation, the continuation of prosecution of the Petitioners in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the FIR and subject proceedings in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

13. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of ***Narinder Singh vs.***

State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the criminal proceedings and the FIR in question.

14. In that view of the matter, writ petitions are allowed in terms of prayer clause (b). As the police machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Petitioners and Respondent No.3 with the cost of Rs.5,00,000/- to be paid by the Petitioners in both the petitions and Respondent No.3 jointly. Out of which an amount of Rs.2,50,000/- to be paid to Ichalkaranji District Bar Association and Rs.2,50,000/- to be paid to Kolhapur District Bar Association.

15. For the quashment to take effect, the Petitioners and Respondent No.3 shall pay the said cost and produce the receipts thereof on the file of this Court within the period of six weeks from today. Failing to pay cost and produce receipt within the stipulated time, the petitions shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as *non-est*. Registry will then intimate the concerned Police

Station that subject FIR shall not be treated to have been quashed and that police shall proceed against the Petitioners in accordance with law.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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