

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

WRIT PETITION NO.649 OF 2021

Hemant Haribhau Gosavi

And Others

... Petitioners

Versus

The State of Maharashtra

And Another

... Respondents

Mr. Karthik Rajasekhar a/w Mr. Arif Sayed for the Petitioners.

Ms. Pooja Thakkar for Respondent No.2.

Mr. K.V. Saste, APP for the Respondent-State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 6 MAY 2022

P. C. : (Per S.M. Modak, J.)

. Heard learned Counsel for the Petitioners/Accused Nos.1 to 4 and 7, learned APP for the Respondent-State, and learned Advocate for Respondent Nos.2/first informant. This Petition is filed for quashing by consent on the basis of settlement in between the accused persons and Respondent No.2. It is arising out FIR No.502 of 2020 registered on 30 December 2020 for the offences punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code. Respondent No.2 is the son of one Shantaram Gosavi, whereas Petitioner No.1 is his nephew. Said Shantaram Gosavi expired on 11 November 2019. He was the owner of shop/gala situated at Akurdi, within the municipal limit of Pimpri-Chichwad, Pune. There were two wills, one dated 5 November 2019 relied upon by Petitioner No.1. Whereas Petitioner No.2 relied upon

another will dated 8 November 2019. As per will dated 5 November 2019, Petitioner No.1 claims that said shop and gala is bequeathed to him, whereas Respondent No.2 claims what as per will dated 8 November 2019, said shop/gala is bequeathed to him.

2 On the basis of the will dated 5 November 2019, Petitioner No.1 has sold shop/gala in favour of Petitioner No.4 by executing a registered document on 30 November 2019. After death of father, Respondent No.2 made an inquiry with the Sub-Registrar Office and he came to know about the first will. According to him his father Shantaram Gosavi has not executed any will, except will in his favour.

3 According to him, will dated 5 November 2019, is forged one. Accused Nos.5 and 6 are witnesses to the said will. He lodged complaint against in all seven persons and police came registered offence.

4 The Petitioners were granted anticipatory bail by Court of Additional Sessions Judge, Pune. During the pendency of this prosecution, the Petitioners and other two accused Nos.5 and 6 and Respondent No.2 have settled dispute. They have resolved the dispute about validity of the will. Petitioner No.1 has accepted the will executed by his uncle Shantaram in favour of Respondent No.2 dated 8 November 2019. Accordingly, he has cancelled the agreement executed in favour of Petitioner No.4 by executing deed of cancellation on 31 December 2020. As per the settlement, Petitioner No.1 has also handed over possession of shop/gala to Respondent No.2. Respondent No.2 has also filed an Affidavit in this Court. Earlier there were certain defects and that is why a fresh affidavit is filed. He has reiterated all events in the said affidavit and he has given consent for quashing FIR against the Petitioners as well

as Accused Nos.5 and 6. As the property dispute is settled, no purpose will be served by continuing the prosecution. Yet, a chargesheet is not filed. Hence, the Order.

: O R D E R :

1. Criminal Writ Petition No.649 of 2021 is allowed.
2. FIR No.502 of 2020 registered at Nigdi Police Station for the offences punishable under Sections 420, 406 read with 34 of the Indian Penal Code is quashed and set aside.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)