

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

CRIMINAL WRIT PETITION NO.816 OF 2022

1. Jamaluddin Jawad Ali Shaikh
Aged 84 years, Occ:business
residing at 11, Kajal Apartment,
1st Hasnabad Lane, Santacruz
Mumbai- 400054.

2. Abu Kasim
Aged 65 years, Occ:business
Residing at 9/2, Arvind Nagar,
Kalina, Santacruz, Mumbai 400029

3. Abu Asim Azmi
Aged 66 years, Occ-Business
Residing at Sentinel House,
Colaba Haji Niyaz Ahmed
Azmi Marg, Mumbai -400005

.... Petitioners.

Vs.

1. The State of Maharashtra
MIDC Police Station, Mumbai.

2. Mr Laiq Ahmed Shaikh
Indian Inhabitant, aged 94 years,
Occ:Nil, Residing at 3, Bilquis-
Apartment, Mahakali Caves road,
Andheri (E), Mumbai-93

.... Respondents.

**WITH
WRIT PETITION NO.830 OF 2022**

1. Mr Laiq Ahmed Shaikh
Aged 94 years, Occ- Nil,
2. Smt. Bilquis Laiq Ahmed
Shaikh aged 88 years, Occ-Nil,
3. Mehtab Laiq Ahmed Shaikh
Aged 60 yrs, Occ-Business
All residing at 3, Bilquis Apartment
Mahakali Caves road, Andheri(E),
Mumbai-93

.... Petitioners.

V/s.

1. The State of Maharashtra
MIDC Police Station, Mumbai.
2. Jamaluddin Jawad Ali
Shaikh father of Late Mohd.
Aslam -Jamaluddin Shaikh
Adult, Inhabitant, Occ:Business
Both residing at Kajal Apartment,
1st Hasnabad lane, Santacruz, Mumbai ...
Respondents.

....

Mr Maniram Gaud i/b Mr Ahmed Jamal for the Petitioner in
W.P. No.186/2022.

Mr Chandrakant k. Talekar i/b Mr Sanjay Sawant for the
Petitioner in WP no.830/2022 and for Respondent no2 in
WP no.816/2022.

Mr.Muniram Gaud i/b Satyaram Gaud for Respondent No.2
in W.P.No.830/2022.

Mrs P.P. Shinde, APP for the State.

**CORAM: REVATI MOHITE DERE &
R.N.LADDHA.**

DATE : 23 NOVEMBER 2022.

Order (Per R.N.Laddha,J.)

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable immediately,
at the request of and with the consent of the learned
Counsel for the parties.

3. In Criminal Writ Petition no.816 of 2022, the prayer is as follows :

"(A) That this Hon'ble Court be pleased to quash and set aside the Criminal Case No.266/PW/2008, arising out of C.R.No.103/2008 of MIDC Police Station, Mumbai, pending on the file of Ld.Metropolitan Magistrate's 25 Court at Sewree, Mumbai, registered by the Respondent No.1 on the complaint of Respondent No.2, against the Petitioners and the Petitioners be set at liberty forthwith."

4. As regards Criminal Writ Petition No.830 of 2022, the prayer is as follows;

"(A) That this Hon'ble Court be pleased to quash and set aside the Criminal Case arising out of FIR No.633/2015 for the alleged offences u/s 420, 447, 34 of the Indian Penal Code pending on the file of Ld.Metropolitan Magistrate's 22 Court at Andheri, Mumbai, registered by the Respondent No.1 on the complaint of Late Aslam Jamaluddin Shaikh and Respondent No.2, against the Petitioners and the Petitioners be set at liberty forthwith."

5. It reveals from the record that the dispute between the parties appears to be a property dispute, and the settlement Agreement was allegedly executed between them. Respondent No.2 Laiq Ahmed Shaikh alleges that the settlement deed on which his signature

was obtained in 2006 is a forged and fabricated document. As against this, according to the Petitioners Jamaluddin and others, no signature of Respondent no. 2 was ever taken on any document allegedly executed in 2006. It is submitted that during the investigation, no such document as alleged has been seized by the police, nor any such document is on record.

6. Further, it reveals from the record that on 7.4.2007, Laiq Ahmed Shaikh, Petitioner No.1 in Writ Petition No.830/2022, had lodged a written complaint against Respondent No.2 and his son Mohd. Aslam and Abu Kasim, Riyaz Ahmed, Abu Asim with MIDC Police Station, Mumbai and on the basis thereof FIR No.103/2008 was registered against them for the offences punishable u/s 384, 386, 387 r/w Section 120-B, 342, 465, 467, 466, of the IPC. The case arising out of FIR No.103/2008 is pending before Metropolitan Magistrate, 25 Court, at Sewree, Mumbai, being Case no.266/PW/2018.

7. On the written complaint of Jamaluddin Jawad Ali Shaikh Respondent No.2 in Writ Petition No.830 of 2022, an offence under Section 420, 447, r/w Section 34 of IPC vide C.R. No.633 of 2015 was registered against Laiq Ahmed Shaikh-Petitioner and others which culminated in filing charge sheet in the Court of Metropolitan Magistrate, 22nd Court, Andheri, Mumbai.

8. Learned Counsel for the parties tendered a copy of the Memo of Understanding/Consent Terms executed in between the parties. The same is taken on record. Learned Counsel for the parties, state that this long-standing civil dispute over property was resolved, and the parties entered into Consent Terms. The Consent Terms also refer to the pending criminal proceedings, two of which are the present petitions. The parties have arrived at an understanding in respect of the property in question.

9. In Writ Petition No.816/2022, Respondent No.2 Laiq Ahmed Shaikh and in Writ Petition No.830/2022, Respondent no.2 Jamaluddin Jawad Ali Shaikh, have filed their Consent Affidavits and they refer to the criminal cases pending against them. They further stated that they have no objection if the FIRs and the criminal proceedings arising therefrom, are quashed as they have amicably settled their dispute. In these petitions, Respondent No.2, who swore the Affidavits, was identified by their respective Counsel. As Respondent No. 2 in Writ Petition No.816/2022 is 94 years and was unable to come to Court, we have heard him through Video Conferencing. On questioning, both of them, i.e.Laiq Ahmed Shaikh and Jamaluddin Jawad Ali Shaikh, reiterated what they said in their Affidavits. Further, they state that they have no objection to the quashing of the impugned FIRs.

10. The learned Counsel for the parties submit that these criminal proceedings arising from a civil dispute can be quashed by consent in light of the decision of the Hon'ble Supreme Court in the cases of Gian Singh and Narinder Singh.

11. Admittedly, this is a property dispute. Respondent No.2 namely Jamaluddin in Writ Petition No.830/2022, has clarified that he, along with others, does not have any right, title or interest in the property in question and they further undertaken and assured that they will not claim any title, interest and possession in the said property in future. Laiq Ahmed Shaikh and Jamaluddin, by filing affidavits have made it clear that it was nothing but a property dispute which is now resolved.

12. It is quite clear that the parties wish to put their past behind. The document in respect of which the offence of forgery is alleged is, admittedly, not on record. On the contrary, the Petitioner Jamaluddin has clarified that he and his family members, legal heirs, legal representatives declared that they had ceased all their rights in the property in question and they have no right, title, claim, interest and, possession in the said property in whatsoever manner. The disputes also do not have ramifications on Society at large. In light thereof, both

petitions are allowed in terms of prayer clause (A),
extracted hereinabove.

13. All concerned to act on the authenticated copy
of this order.

R.N.LADDHA,J.

REVATI MOHITE DERE,J.