

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1022 OF 2019**

Subhash Vakil Ghosh	... Petitioner
Vs.	
The State of Maharashtra And Ors	... Respondents

Ms. Mallika Ingle – Advocate for the Petitioner.
Mr. N. M. Nadar – Advocate for Respondent Nos. 2 & 3.
Ms. S. D. Shinde – APP for Respondent-State.

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

DATE : 22nd April, 2022

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

1. Heard Ms. Mallika Ingle, the learned advocate for Petitioner, Mr. N. M. Nadar, the learned advocate for Respondent Nos.2 and 3 and Ms. S. D. Shinde learned APP for the Respondent-State.

2. There was a shop of selling vegetable and the license was standing in the name of Vakil Ghosh. He is survived by a son Subhash and two daughters by name, Aarti Dinesh Gogri and Bharati Bandopadhyaya. They are Respondent Nos. 2 & 3. Said Vakil Ghosh expired on 2nd October, 2010. During his lifetime he has prepared a will.

Both the sisters have filed Testamentary Suit No. 21 of 2012 for grant of probate in this Court.

3. Both these sisters have alleged that their brother present Petitioner Subhash has forged their signatures on NOC and got transferred the licenses in the record of BMC in his name that is why both have filed separate complaints before the Court of Metropolitan Magistrate. There was an order to investigate under Section 156 (3) of Code of Criminal Procedure. Accordingly, two separate MECR are registered bearing No. 02 of 2014 on 18th of March, 2014 for the offence punishable under Sections 463, 464, 465, 467, 470, 471 and 474. It is at the instance of Respondent No. 3-Bharati. Whereas MECR No. 03 of 2014 is registered on 18th March, 2014 for the offence punishable under Sections 463, 464, 465, 467, 470, 471 and 474 on the complaint of Mrs. Aarti Gogri. Both these offences were registered at Vile Parle Police Station. Now the police have filed charge-sheet in MECR No. 02 of 2014 and the case number is 807/PW/2019 before the Court of Metropolitan Magistrate 65th Andheri.

4. Both the parties have settled their dispute and consent terms were filed before the Testamentary Court. Its copy is filed on record. Those consent terms were taken on record and the Testamentary Suit was disposed on 20th December, 2018. Now the

dispute no more remains. The Criminal case has arisen out of dispute relating to the properties. As it is settled we do not find any reason to continue with any criminal prosecution.

4. The Petitioner is at liberty to carryout the amendment, thereby incorporating the Charge-sheet details. Hence the following Order is passed:-

ORDER

- a) Criminal Writ Petition No.1022 of 2019 is allowed.
- b) The MECR No. 03 of 2014 registered at Vile Parle Police Station for the offences punishable under Sections 463, 464, 465, 467, 470, 471 and 474 is quashed and set aside.
- c) C.C.No.807/PW/2019 pending with the Court of Metropolitan Magistrate 65th arising out of MECR No. 02 of 2014 for the offences punishable under Sections 463, 464, 465, 467, 470, 471, 474 is quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)