

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

WRIT PETITION NO. 1335 OF 2022

Rajkumar Vashumal Kishnani and
Anr.

...Petitioners

vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Makrand Kale - Advocate for the Petitioners

Mr. Akhil Kubde i/by Manoj Hazit and Co. - Advocate for Respondent No. 2

Mr. Rajkumar Kishnani – Petitioner No. 1 personally present.

Mr. Pradeep Kishnani – Petitioner no. 2 personally present

Mr. Ramesh Kishnani- Respondent No. 2 personally present.

Ms. S. D. Shinde - APP for the Respondent-State

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

DATE : 29th APRIL, 2022

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

. This is a Petition for quashing by consent filed by the original accused persons. There is settlement executed in between the Petitioners on one hand and Respondent No. 2 on the other hand. All of them are brothers. Their father expired on 17/01/2019 and mother expired earlier on 18/03/2018. Allegation of Respondent No. 2 is that the Petitioners prepared forged and fabricated will and gift deed of their parents. Respondent No. 2 got knowledge when he collected documents from the

concerned authorities as per Right to Information Act. He was compelled to file police complaint, no action is taken that is why he has approached the concerned Court of JMFC at Ulhasnagar. He gave direction to the concerned Police Station to register F.I.R. against the Petitioners for the offence punishable under Sections 406, 420, 467, 468, 471 read with 34 of the Indian Penal Code as per Order dated 22/10/2021. The attempt of the Petitioners to seek anticipatory bail was rejected by the Additional Sessions Judge, Kalyan even they were not successful when they have approached this Court. Ultimately when the Petitioners approached the Hon'ble Supreme Court there was a submission about the settlement talks going on. It is recorded in various Orders passed by the Hon'ble Supreme Court of which the copies filed on the record. Accordingly, the memorandum of Family arrangement is executed on 10/04/2022 in between the parties. Its copy is filed on record.

2. Accordingly, this Petition is filed. We have heard the learned counsel for the Petitioners, learned counsel for the Respondent No. 2 and learned APP for the Respondent – State.

3. The Respondent No. 2 has filed an affidavit in support of settlement and given consent of quashing the criminal proceedings against the Petitioners. The terms of settlement are mentioned in the copy of memorandum filed on record. They have also agreed to distribute the

properties against themselves given in First, Second, Third, Fourth and Fifth schedule. There is detailed description of the properties amongst themselves. There is also arbitration Clause no. 16 in case of dispute and differences.

4. In view of the settlement, we are inclined to quash the proceedings. The prosecution is outcome of the property dispute. As they have settled the property dispute, no purpose will be served by keeping the prosecution pending. The parties can certainly takes appropriate steps in case of difference of opinion due to non-implementation of settlement deed. Hence the following Order :-

ORDER

- (i) The Writ Petition No. 1335 of 2022 is allowed.
- (ii) F.I.R. No. 353 of 2021 registered at Ulhasnagar Police Station, Thane for the offence punishable under Sections 406, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code is quashed and set aside.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)