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

CRIMINAL WRIT PETITION NO.4599 OF 2021

1. Mahendra Tated	...	
2. Prashant Shah	...	
3. Sureshbhai R. Patel	...	
4. Smita Suresh Patel	...	
5. Pramod Shrikant Dev	...	
6. Ankur Sureshbhai Modi	...	
7. Saroj Mahendra Tated	...	
8. Sapna Shah @ Shilpa P. Shah	...	
9. Sushilaben K. Kukadiya	...	
10. Kishor Kukadiya	...	
11. Harshad V. Vithlani	...	
12. Mangooben I. Patil	...	
13. Yogini Sureshbhai Modi	...	
14. Bijal Dharmendra Surati	...	Petitioners

Versus

1. The State of Maharashtra	...	
2. Mrs. Vandana Goyal	...	Respondents

Mr.Ashok M. Chopra with Ms. Vinita Jain, for the petitioners.
Ms. M.H. Mhatre, A.P.P for the Respondent No.1-State.
Mr. Datta Mane, for Respondent No. 2.

**CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.**

DATE : 14TH OCTOBER 2022

P.C. :

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1-State. Mr. Datta Mane, learned counsel waives notice on behalf of the respondent No.2.

3. By this petition, the petitioner seeks quashing of the FIR, bearing C.R. No.160 of 2016, registered with the Malad Police Station, Mumbai, for the alleged offences punishable under sections 141, 144, 147, 452, 384, 427, 504, 506 r/w 34 of the Indian Penal Code.

4. Quashing is sought on the premise, that the parties have amicably settled their dispute.

5. Perused the papers. It appears that the petitioners and the respondent no.2, live in the same society. It appears that there was dispute with respect to construction of an iron gate by the respondent no.2, pursuant to which both parties have lodged an FIR, against each other.

6. Today, by a separate order passed in Criminal Writ

Petition No.2458 of 2016, we have quashed the FIR, bearing C.R. No.159 of 2016, registered with the Malad Police Station, Mumbai, as against the respondent no.2 herein and the petitioner in the said petition, in view of the amicable settlement between the parties.

7. It appears that there was some dispute, with respect to an iron gate constructed by the respondent no.2. It is alleged by the respondent no.2, that the petitioners herein, obstructed her from constructing the said gate. The respondent no.2 is a doctor, who runs a hospital in the society, in which the petitioners also reside. Pursuant to the act of the petitioners, the respondent no.2 lodged the aforesaid FIR, as against the petitioners herein. After investigation, charge-sheet was filed in the said case, and the case is presently pending before the learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai, being R.C.C. No.3106/PW/2016 and C.C. No.768/PW/2017.

8. In the interregnum, during the pendency of the aforesaid case, the parties amicably settled their dispute, and as such entered into an Memorandum of Understanding (MoU)

dated 28th January 2020. The said MoU is at Exhibit-D, at page 114 of the petition.

9. Learned counsel for the respondent no.2, has tendered the consent affidavit of the respondent no.2-Vandana Goyal dated 14th October 2022, duly affirmed, before the Assistant Registrar, High Court, Mumbai. To the said affidavit, is annexed the MoU dated 28th January 2020. In the said consent affidavit, the respondent no.2 has stated that the parties have entered into a MoU and that she is has no objection for quashing of the said C.R. In paragraph 3 of the affidavit, it is stated that both the parties have decided, to withdraw the cases filed by them against each other. The respondent no.2 is present in person. On being questioned, she reiterates what is stated by her in her consent affidavit, tendered today. She is identified by her counsel and the learned APP has verified the adhar card. Learned counsel for the respondent no.2, has tendered a xerox copy of her adhar card, duly attested, by her. The same is taken on record.

10. Considering the nature of dispute, the consent affidavit of the respondent no.2, the amicable settlement

between the parties, and having regard to the judicial pronouncements of the Apex Court in the case of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², there is no impediment in allowing the petition.

11. The petition is accordingly allowed and the FIR, bearing C.R. No. 160 of 2016, registered with the Malad Police Station, Mumbai, and consequently, the proceeding arising therefrom, bearing C.C. No.3106/PW/2016 and C.C. No.768/PW/2017, pending before the learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai, are also quashed and set-aside.

12. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466