

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

WRIT PETITION NO.2937 OF 2021

Devashi @ Goganbhai Khunti		
And Others	...	Petitioners
Versus		
The U.T. of DDR & NGR		
Haveli at Diu		
And Others	...	Respondents

**ALONG WITH
WRIT PETITION NO.2948 OF 2021**

Devashi @ Goganbhai Khunti		
And Others	...	Petitioners
Versus		
The U.T. of DDR & NGR		
Haveli at Diu		
And Others	...	Respondents

Mr. Niranjan Mundargi a/w Mr. Vikram Sutaria, for the Petitioners.
 Mr. H.S. Venegaonkar, for Respondent No.1-Union Territory
 Mr. Mehul Shah for Respondent No.2 in both petitions.
 Mr. K.V. Saste, APP for the State.

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

DATE : 8 MARCH, 2022

P. C. :

. There were two offences registered at Diu Police Station for the offences punishable under Section 452, 394, 307, 504, 506(II) read with Section 34 of IPC and u/s 25(1)(b) of the Arms Act. It was at the instance of Chetanbhai Kahateria. The present four Petitioners are the accused therein. Writ Petition No.2937 of 2021 is the petition for quashing that

proceedings. Another offence is registered on 15 March 2014 at Diu Police Station by the present Respondent No.2. The present four Petitioners are accused therein. It was for the offences under Sections 420, 468, 470, 471, 474 r/w 34 and 35 of IPC. That FIR was registered on the directions given by the learned Magistrate under Section 156(3) of Criminal Procedure Code. During the pendency of these prosecutions, Respondent No.2 and Respondent No.1 Devashi have entered into deed of settlement dated 9 May 2016. The dispute has arisen over the shop. By the deed of settlement, Petitioner No.1 has agreed to sale that shop. Whereas the Petitioner No.1 had handed over the original sale deed in his favour to Respondent No.2. Respondent No.2 has also agreed to return Rs.1,72,000/- as mentioned in clause-5.

2 Respondent No.2 has also filed an affidavit thereby confirming the settlement and consent terms executed on 18 June 2021, there by consented for quashing of the FIR.

3 The Petitioners were discharged by the Sessions Judge on 8 October 2015 for the offences punishable under Section 307 of IPC. A copy of the Order is filed at Pg.37. The Chief Judicial Magistrate has framed charge under Sections 452, 394, 324, 504, 506(2) of IPC read with Section 34 of IPC. Its copy is at Pg.60. There is no charge for offences under Arms Act. Even Regular Civil Suit No.10 of 2012 filed by Petitioner No.1 against Respondent No.2 is also withdrawn. Its copy is on Pg.72.

4 Considering the above facts, the background of these criminal cases is dispute on account of shop. Petitioner No.1 has sold the shop back to Respondent No.2. Hence continuing both prosecutions will not be in the interest of both parties and if they are continued, the parties will have to

attend the Court and both parties will be put to inconvenience more and they will not be in a peaceful state of affairs. Hence, both prosecutions needs to be quashed. Hence, the Order.

: O R D E R :

1. Both Petitions are allowed.
2. RCC No.22 of 2012 and Sessions Case No.1 of 2013 arising out of C.R. No.4 of 2012 registered at Diu Police Station for the offences punishable under Sections 452, 394, 323, 504 and 506(II) read with Section 34 of IPC is quashed and set aside.
3. RCC No.10 of 2018 for the offences punishable under Sections 420, 468, 471 read with Section 34 of IPC arising out of C.R. No.M-31/2014 registered at Diu Police Station, pending on the file of Court of Judicial Magistrate at Diu is quashed and set aside.
4. Bail Bond of all the Petitioners stands cancelled.

RAJESH
VASANT
CHITTEWAN

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RAJESH VASANT
CHITTEWAN
Date: 2022.03.15
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(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)