

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

CRIMINAL WRIT PETITION NO. 4019 OF 2022

1. Chandrakant Prabhakar Bagal
2. Padmakar Prabhakar Bagal ... Petitioners
Versus
1. The State of Maharashtra
2. Sarita Dadaso Sawant ... Respondents

Mr. Vijay Killedar for the Petitioners.

Mr. Rajesh Jadhav for the Respondent No.2.

Mr. S. S. Hulke, APP for the Respondent No.1-State.

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

DATE : 2nd DECEMBER, 2022

P.C. :-

. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the petition is taken up for final disposal. Learned APP waives notice on behalf of the respondent no.1-State and Mr.Rajesh Jadhav, learned counsel waives notice on behalf of the respondent no.2.

3. By this petition, preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the FIR, registered vide C.R. No. 1578 of 2021 with the Sangola Police Station, Solapur, for the alleged offences punishable under Sections 379 and 427 read with 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent no.2 (original complainant), the petitioners had unauthorisedly withdrawn 1381 brass of minor minerals from her private land, whilst executing the civil work, under the Prime Minister's Rural Development Road Scheme. Pursuant thereto, the respondent no.2 lodged the aforesaid FIR, as against the petitioners alleging the aforesaid offences.

5. It is pertinent to note that the respondent no.2 had also filed

a complaint with the Tahsildar of Sangola District, with respect to the unauthorised removal of minor minerals from her land. Pursuant thereto, the Tahsildar had issued notice to the petitioners. However, subsequently, the said notice came to be withdrawn by the Tahsildar, after observing that the royalty for removal of the said minor minerals was paid for by the petitioners. Accordingly, the Tahsildar cancelled the notice issued to the petitioners. Learned counsel for the petitioners has tendered a copy of the said order dated 14th November, 2022 by which, the Tahsildar cancelled the said notice. The said order is taken on record.

6. Learned counsel for the respondent no.2 states that the respondent no.2 has no objection to the quashing of the FIR/proceeding, registered at her behest. The Respondent No.2's affidavit dated 29th September, 2022, has been duly notarized before the Notary and is annexed at page 41 of this Petition. She has stated that out of misunderstanding, the FIR came to be lodged. The respondent no.2 is present in person. On being

questioned, she reiterates what is stated by her in the affidavit. The respondent no.2 has been identified by her counsel. Learned counsel for the respondent no.2 has tendered a photocopy of the Aadhar Card of the respondent no.2, duly attested by her. The same is taken on record and the learned APP has verified the original Aadhar Card.

7. Having heard the parties and having perused the papers, we are *prima-facie* of the view that no offence as alleged is made out as against the petitioners. Even otherwise, the Respondent No.2 has no objection to the quashing of the C.R./proceeding. The petition is accordingly allowed and the FIR registered vide C.R. No. 1578 of 2021 with the Sangola Police Station, Solapur is quashed and set aside.

8. Rule is made absolute in the aforesaid terms and the petition is disposed of accordingly.

9. Learned counsel for the respondent no.2 to file his *Vakalatnama*, if not filed, on behalf of the respondent no.2, within

two weeks of the uploading of this order.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

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