

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

CRIMINAL WRIT PETITION NO.4776 OF 2018

Ashvin Morarjee Shah & Ors. Petitioners

Vs.

The State of Maharashtra & Anr. Respondents

Mr. Aabad Ponda, Senior Advocate a/w. Shreni Shetty , Mr. Krusha Maheshwari i/b ANB Legal for the Petitioners.

Mr. Kushal Mor for respondent No.3.

Ms. M. H. Mhatre, APP for respondent No.1 -State.

**CORAM: PRASANNA B. VARALE &
G. A. SANAP, JJ.**

DATED : 25 MARCH 2022.

P. C.

Respondent No.3 has tendered an affidavit in support of the prayer made in the petition. Affidavit is taken on record and marked as "X" for identification.

2. In this petition filed under section 482 of Cr. P. C. the petitioners have prayed for quashing the FIR No.239/2018 registered on 18/9/2018 at MRA Marg Police Station for the offence punishable under section 471, 419, 420, 465, 467, 468 r/w. 34 of the IPC. FIR came to be registered on the report lodged by Respondent No.3. In the report Respondent No.3 alleged that Petitioner No.1 had forged his signature and on the basis of this forged signature, purported consent letter was prepared and submitted to the Registrar of Company recording the consent of

Respondent No.3 for his appointment as the director of Yashraj Agrotech Farm Private Limited the Company. The forgery was committed for wrongful gain to the petitioners and wrongful loss to Respondent No.3. The act was done by petitioner Nos. 1 to 3 in furtherance of their common intention. Based on this complaint crime came to be registered.

3. It is contention of the petitioners that the case filed against them is false and frivolous. A civil dispute due to some business transaction between petitioner and respondent no.3 has been given criminal colour. No case has been made out to prosecute them.

4. During pendency of this petition, petitioners and respondent No.3 appears to have settled their dispute. Respondent No.3 has filed his affidavit cum no objection for quashing the FIR. A copy of settlement arrived at between them has been annexed to the affidavit. In the affidavit respondent No.3 has categorically stated that the dispute between him and the petitioners has been amicably settled. He has no grievance of any nature against the petitioners. The contents of the affidavit have been verified by us. The petitioner who is present in the court has confirmed and reiterated the same.

5. In view of this settlement, it would not be necessary to go into details of allegations made in the FIR. Besides, perusal of the FIR would show that offences alleged to have been committed by the petitioners cannot be said to be against the society at large.

Even if the allegations contained in the FIR are taken at the face value, it would indicate that Respondent No.3 is the only aggrieved party. Verification of settlement clearly indicate that it is a *bonafide* settlement.

6. In the facts and circumstances, in our view continuation of the prosecution would be exercise in futility. In any case, in the background of the settlement arrived at between the parties, we can perceive the result of the criminal prosecution. The continuation of the prosecution in our considered opinion would be sheer wastage of judicial time of the Court. Hence the following order:

1. The petition is allowed. The FIR bearing No.239/2018 dated 18/9/2018 registered by M.R.A. Marg Police Station for the offence punishable under section 471, 419, 420, 465, 467, 468 r/w. 34 of the Indian Penal Code is quashed and set aside.

2. In view of peculiar facts, the FIR is quashed subject to petitioners depositing Rs.2,50,000/- each within a period of four weeks from today in the accounts of Tata Memorial Hospital and on production of a copy of the receipt of the same on record. It is made clear that on failure on the part of petitioners to comply with the condition, would result in revoking the order of quashing of the FIR.

3. The counsel for Respondent No.2 submits that though he has been instructed to appear for respondent No.2 and though power of Vakalatnama is obtained by respondent No.3, the same could not be filed in the office. Learned counsel for respondent No.2 is permitted to file his Vakalatnama within one week from today.

(G. A. SANAP, J.)

(PRASANNA B. VARALE, J.)