

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

CRIMINAL WRIT PETITION NO.258 OF 2020

Kusal Roy & Ors ...Petitioners
Versus
The State of Maharashtra & Ors ...Respondents

Mr. Sanjog Parab, Senior Advocate a/w Waseem Pangarkar, Chirag Niak, Vaijayanti Sharma & Mohan Rao, i/b MZM Legal LLP, Advocate, for Petitioners.

Mr. A.R. Patil, APP, for State/Respondent.

Mr. Mayank Bagla, i/b Jainish Jain, Advocate, for Respondent Nos.2, 3 & 4.

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CORAM : SARANG V. KOTWAL, J.
DATE : 9th AUGUST 2023

PC :

1. In this Petition the Petitioners have challenged the order dated 18th October 2019 passed by the Judicial Magistrate First Class, Pimpalgaon Baswant issuing process against the Petitioners in S.C.C. No.92 of 2019 under Section 500 r/w 34 of Indian Penal Code (for short "IPC"). In this Petition, Rule is already issued and the Petition is pending for final disposal.

2. Heard learned Counsel for both the parties.

3. Both the learned Counsel submit that the matter is now amicably settled between the parties and, therefore, the order of issuance of process can now be set aside in view of the settlement.

4. The original Complainant No.2 i.e., the Respondent No.3 is present in the Court and his learned Counsel identified him. Similarly, the Petitioner No.6 is present in the Court and the learned Counsel for the Petitioners identified her.

5. The Respondent No.3 has tendered an affidavit on behalf of the original Complainants. A copy of the settlement agreement dated 28th April 2023 is annexed to this affidavit. It is mentioned in the paragraph 2 of the affidavit that, the parties have amicably resolved their pending dispute including the disputes arising out of the complaint, which is the subject matter of this Petition. In paragraph 3 of the affidavit it is specifically mentioned that in view of the settlement and the resolution of the dispute pending between the parties, the Respondent No.3 in his individual capacity and on behalf of the Respondent No.2, consents to quash the complaint and all the proceedings arising therefrom and does

not have any objection if the complaint and the consequent order of issuance of process are quashed and set aside.

6. The settlement agreement is annexed to the affidavit. The paragraph 7(a) refers to the present Writ Petition and it is mentioned that the Complainant i.e., the Respondent No.3 shall fully co-operate with the Petitioners for quashing of the criminal complaint and shall appear before this Court for recording of statement and filing his no objection/consent affidavit required for quashing of the criminal complaint.

7. Accordingly, the parties are present before this Court as mentioned earlier.

8. The process was issued under Section 500 r/w 34 of the IPC. The complaint was dismissed for offence punishable under Section 499 r/w 120-B of IPC. The offence under Section 500 of IPC is compoundable. In view of the settlement between the parties and the specific no objection is given by the Respondent No.3 through his affidavit, the Petition can be allowed and the order of issuance of process can be set aside.

9. Hence, the following order:

ORDER

i) The Rule is made absolute in terms of prayer clause (A) which reads thus:

“A. The Hon’ble Court be pleased to examine the legality, validity and propriety of the Impugned Order dated 18.10.2019 passed by the Ld. Judicial Magistrate First Class, Civil and Criminal Court, Pimpalgaon Baswant issuing process against the Petitioners in SCC No. 92 of 2019 under section 500 r/w section 34 of the Indian Penal Code, 1860 and kindly issue appropriate writ in the nature of Certiorari and/or Writ of Mandamus or any other appropriate writ under Article 226 of the Constitution of India and/or direction and/or order and thereby be pleased to quash and set aside the said Impugned Order passed by the Ld. Magistrate;”

ii) The Petition is disposed of.

(SARANG V. KOTWAL, J.)