



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

CRIMINAL WRIT PETITION NO. 2206 OF 2023

1. Nimesh Kantilal Jain,
602, Laxmi Mahal,
Road No.8, Daulatnagar,
Borivali (E),
Mumbai 400 066.
2. Gautam Shivshankar Pande
Age 54 years
P/1-003, Challenger Tower,
Thakur Village, Near Thakur Theatre,
Kandivali (E), Mumbai 400 101.
3. Rajaram Bavala Manjavkar
Age 73 years
704, 705, Sahyadri CHS Ltd.,
Sadgurunagar, Devipada,
Borivali (East)
Mumbai – 400 066.
4. Rajashree Rajaram Manjavkar
Age 64 years,
r/at C-704, 705,
Sahyadri Co-op. Housing Society Ltd.,
Sadgurunagar, Devipada,
Borivali(East), Mumbai 400 066.
5. Mukesh Gautam Pandey,
Age 30 years,

1/003, Challenger Tower,
Thakur Village,
Kandivali (E), Mumbai.

6. Sunil Gautam Pandey,
Age 33 years,
1/003, Challenger Tower,
Thakur Village,
Kandivali (E), Mumbai.

7. Ritesh Virchand Shah
Age 44 years
r/at 701, Soni Tower,
Haridas Nagar, Borivali(West)
Near Kora Kendra Ground,
Mumbai 400092.

8. Sameer Shirish Dadia
Age 44 years
1102, Signia Hi, Vasant Marvel Road,
Borivali (E), Mumbai.

...Petitioners

Versus

1. The State of Maharashtra
(Originally through the Senior
Inspector of Police,
Kasturba Marg Police Station,
Borivali (E)
but now at the instance of
DCB, CID, Unit No.12,
Dahisar (E), Mumbai

2. Udaykumar Vishnudev Singh,
Age 74 years
501/502, Vastu Residency,
Behind Nancy Cottage,
Borivali (E), Mumbai.

... Respondents

WITH
CRIMINAL WRIT PETITION NO. 1548 OF 2023

1. Nikhil Uday Kumar Singh
Age 45 years, Occ. Business
R/at B/24, Nancy Cottage,
Near Shri Krishna Nagar,
Borivali(E), Mumbai

2. Uday Kumar Singh
Age-72 years, Occ. Business
R/at B/24, Nancy Cottage,
Near Shri Krishna Nagar,
Borivali (E), Mumbai.

...Petitioners

Versus

1. State of Maharashtra
Through Sr. PI Kasturba Marg
Police Station, Dist. Mumbai.

2. Gautam Shivshankar Pande
Age 54 yrs Occ: Business
r/at: P/1-003, Challenger Tower,
Thakur village, Near Thakur Theatre,
Kandivali East, Mumbai 400101.

... Respondents

Mr Harshad Joshi a/w. Mr. Nishant Shah i/b. YRJ Legal for petitioners in wp 2206/23 and respondent No.2 in wp 1548/23.

Mr Kuldeep Patil i/b. Saili Dhuru for petitioners in wp 1548/23 & respondent No.2 in wp 2206/23.

Mr. J.P. Yagnik, APP for the State.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 14 JULY 2023

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. The learned counsel for the petitioner in Writ Petition No.1548/23 seeks leave to amend the petition to add Complainant as party respondent No.2. Leave granted. Amendment be carried out forthwith.

3. Rule. The Rule is made returnable forthwith, with the consent of the parties. The petitions are taken up for final disposal. The learned counsel appearing for the parties waive notice on behalf of the respective parties.

4. The Criminal Writ Petition No.2206/2023 is filed for quashing the C.R.No.1274/2022, registered against the

petitioners with Kasturba Marg Police Station, Mumbai, which was then transferred to DCB, Unit No.12, Dahisar East, Mumbai, for the alleged offences punishable under Sections 406,420,465,467,468,471 read with 34 of the Indian Penal Code.

5. The Criminal Writ Petition No.1548/2023 is filed for quashing the F.I.R. bearing C.R.No.171/2018, registered against the petitioners with Kasturba Marg Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420 read with 34 of Indian Penal Code. Both the aforesaid FIRs are with respect to the same incident.

6. The Petitioner No.2 in Writ Petition No.2206/2023 is Respondent No.2 in Writ Petition No.1548/2023, and the Respondent No.2 in Writ Petition No.1548/2023 is Petitioner No.2 in Criminal Writ Petition No.1548/2023.

7. The learned counsel for the parties in these petitions stated that the disputes have been amicably settled between the parties. They submitted that these matters are arising out of commercial transactions and cited the decisions of the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab &*

*Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*². The parties in these petitions have filed Memorandum of Understanding dated 16 January 2023 and 14 July 2023 stating that they have settled their dispute amicably and they will abide by the terms and conditions mentioned therein. Respondent No.2 in Writ Petition No. 2206 of 2023-Udaykumar Singh has tendered his consent affidavit and stated that he has already received an amount of Rs.1 crore. The parties agree to the terms and conditions of the Memorandum of Understanding dated 16 January 2023. The parties are present before us and stated that they have no objection to quash the impugned FIRs filed against each other as they want to put an end to their disputes and lead a peaceful life.

8. We have examined the facts of the case. It is revealed from the record, particularly the affidavit, Memorandum of Understanding and the statement made before the Court by the contesting parties in these petitions, that they have settled their dispute, and do not want to proceed against each other. In such circumstances, no fruitful purpose will be achieved by keeping the prosecution alive.

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

9. Considering the nature of the allegations, the nature of the dispute between the parties, their relations with each other, the amicable settlement between the parties, the prayer of the Respondents in these petitions and the settled principle of law in the case of *Gian Singh* and *Narinder Singh (supra)*, there appears to be no impediment in allowing the prayer of quashing the impugned FIRs by consent. Upon expressing our opinion, the learned counsel representing Petitioners, on instructions, submitted that each of the Petitioners in these petitions will pay costs of Rs.1,00,000/- to the Kirtikar Law Library, Mumbai. The statement is accepted as an undertaking given to this Court. Accordingly, we direct each of the Petitioners in these petitions to pay costs of Rs.1,00,000/- within three weeks of this order being uploaded.

10. In view of this, the impugned FIR bearing No.1274 of 2022 and FIR No.171 of 2018, registered at Kasturba Marg Police Station, Mumbai, are quashed and set aside.

11. Rule is made absolute in these terms, and these Petitions are disposed of subject to payment of costs as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.