

CRIMINAL WRIT PETITION NO. 243 OF 2022

DATE : 26th APRIL 2023

1. Heard. It appears that in the present crime which is registered as Crime No. I-71/2011 at Shivajinagar Police Station, Thane, for the offences punishable under Sections 420,467, 468,471, 447 r/w Section 34 of the Indian Penal Code against the Petitioner, there were two complaints containing similar allegations and therefore both the complaints were clubbed together and registered as one single crime. One of the complaints was filed by late Vinay Bahulekar while the other complaint was filed by Vaibhav Bahulekar.

2. Vinay Bahulekar has passed away and now he is represented by his legal heirs namely Smt. Anyua Bahulekar (widow), Smt. Aditi (daughter) and Smt. Kirti (daughter). Smt. Anyua, Smt. Aditi and also Vaibhav Bahulekar are personally present before the Court. They are identified by learned Counsel appearing for Respondent No.2. Smt. Kirti was present yesterday but today due to her urgent family responsibilities, she could not personally remain present before the Court.

3. We have inquired with Smt. Anuya Bahulekar, Smt. Aditi and Shri Vaibhav Bahulekar as to whether or not there is amicable settlement with the accused, Rahul Shravankumar Bagaria, who is not present before the Court but is represented by learned Counsel. They submit that the dispute has been amicably settled by them and it was a voluntarily made settlement without any pressure or inducement of any nature and that they are satisfied with the terms of settlement. They have no objection if the present crime is quashed and set aside.

4. On going through the FIR and also the Affidavits of consent filed by Respondent Nos. 2, 3 and 4 and Vaibhav Bahulekar, we find that the underlying dispute behind Crime No. I-71/2011 is basically

of civil nature. There is also amicable settlement of the dispute between the parties.

5. In these circumstances, we find no reason as to why effect should not be given to the settlement arrived at between the parties. We accordingly find that the Writ Petition deserves to be allowed. Hence, we pass the following order.

ORDER

(I) Writ Petition is allowed in terms of prayer clause (a) which reads as follows:-

“(a) that this Hon’ble Court may be pleased to call for the investigation papers concerning FIR No. I-71/11 from Shivajinagar Police Station, Ambernath, Dist Thane and after examining the legality, validity and/or propriety of the said FIR being in vogue as well as Case No. 807 of 2013, pending in the court of the Ld. JFMC, Ulhasnagar after filing of the charge-sheet, may be pleased to quash and set aside the same.”

(II) The Petitioner shall pay and deposit an amount of Rs.10,000/- in the account of Legal Services Authority, Thane within a period of four weeks from the date of order, failing which this order shall automatically stand cancelled and Petition shall be placed before the Court for further directions.

(III) Judicial Magistrate First Class, Ulhasnagar, before whom criminal proceeding of Case No. 807 of 2013 is pending, shall direct to hand over cheque for Rs. 28,00,000/- each to Smt. Anuya Vinay Bahulekar and Shri Vaibhav Arvind Bahulekar and balance of the amount lying in the deposit with the Court shall be paid together with interest, if any, to the Petitioner, Rahul Shrivankumar Bagaria within a reasonable period of time, not more than four weeks from the date of order.

(IV) Writ Petition is disposed of in the aforesaid terms.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)