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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1492 OF 2022

Sunil Kumar Sheepahi Ram and others. ...Petitioners.
V/s.
The State of Maharashtra & Another. ...Respondents.

Mr. S.R. Dubey for the Petitioners.
Mr. J.P. Yagnik APP for the Respondent-State.
Mr. S.H. Singh for the Respondent No.2.

CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.

DATE : 1st September, 2023.

P. C. :

1. Leave to amend to incorporate challenge to C.C.No.2493/PW/2023 pending on the file of Metropolitan Magistrate, 34th Court, Vikhroli arising out of C.R.No.591 of 2021 registered with Nehru Nagar Police Station, Vikhroli under sections 341 and 336 read with 34 of the Indian Penal Code in the prayer clause granted. Amendment be carried out during the course of the day.

2. Petitioners, accused in CC No.2493/PW/2023 pending on the file of Metropolitan Magistrate, 34th Court, Vikhroli arising out of C.R.No.591 of 2021 registered with Nehru Nagar Police Station, Vikhroli

under sections 341 and 336 read with 34 of the Indian Penal Code have filed present petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure for quashing of the said crime, with the consent of Respondent No. 2, the victim.

3. Mr. Dubey, learned Advocate for the Petitioners submitted that, Petitioner Nos.1 and 2 were the watchmen of the housing society where the Petitioner Nos.3 to 5 and Respondent No.2 were residing. That, Petitioner Nos.3 to 5 have settled the differences and disputes with Respondent No.2 amicably and Respondent No.2 has given his consent for quashing of the present case. He therefore prayed that, the said case may be quashed.

4. Learned advocate for Respondent No.2 submitted that Respondent No.2 has filed Affidavit, dated 2nd August 2023 duly affirmed before a Notary Public. Respondent No.2 has admitted of settling the issues and differences with Petitioner Nos.3 to 5. In Paragraph No.5 thereof, Respondent No.2 has given his no objection for quashing of the present crime.

Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 2nd August 2023 and his 'no objection' for quashing the crime in question.

5. In view thereof, we are inclined to quash the said C.C.No. 2493/PW/2023 pending on the file of Metropolitan Magistrate, 34th Court, Vikhroli arising out of C.R.No.591 of 2021 registered with Nehru Nagar Police Station, Vikhroli.

6. As we expressed our opinion for quashing of the said C.C. No. 2493/PW/2023 pending on the file of Metropolitan Magistrate, 34th Court, Vikhroli arising out of C.R.No.591 of 2021 registered with Nehru Nagar Police Station, Vikhroli, learned advocate for the Petitioners on instructions submitted that, Petitioner Nos.3 to 5 will pay a cost of Rs.25,000/- each, totaling to Rs.75,000/-, to Tata Memorial Centre (Tata Memorial Hospital), Dr. Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from the date of uploading of Order on the official website of the Bombay High Court. The said statement is accepted as an undertaking given to this Court.

7. We direct the Petitioner Nos.3 to 5 to pay a cost of Rs.25,000/- each, totaling to Rs.75,000/-, to Tata Memorial Centre (Tata Memorial Hospital), Dr. Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

Details of the bank account for payment of cost are as under:-

Bank Name	:-	Central Bank of India.
Branch Name	:-	TMH, Parel, Mumbai - 400 012.
Account Name	:-	Tata Memorial Centre (Tata Memorial Hospital)
Account Number	:-	1002449683
IFSC Code	:-	CBIN0284241

The Petitioners to deposit the said cost of Rs.75,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

8. In view of above and subject to payment of cost, petition is allowed in terms of prayer clause (a) and (a-1).

9. It is made clear that if the cost is not paid within the stipulated period as mentioned above, petition shall stand revived automatically and in that event, the trial Court shall proceed with the said case expeditiously.

10. List the petition on board on 29th September 2023, under caption 'for reporting compliance' of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)