



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 812 OF 2022

Madhuri Kapil Koli and another ... Petitioners

Versus

The State of Maharashtra and another ... Respondents

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Mr. Manoj Patil for the Petitioners.

Ms. Sharmila Kaushik, APP for the State.

Mr. Karan Mehta alongwith Mr. Punit Vyas and Mr. Shubham Dudhwadkar instructed by Karan Mehta and Associates for the Respondent No.2.

Respondent No.2 present, in person.

API Govind Kakde, Dharavi Police Station, present.

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

DATED : 1 NOVEMBER 2023

P.C. :-

1. Mr. Dinanath got married to Ms. Damayanti who expired on 7 June 2020 bequeathing her immovable property vide will dated 17 January 2020 a notarized document. Alleging that fraud is being practiced in the execution of the aforesaid will, the complaint came to be lodged by the respondent no.2 against the petitioner No.1, who is her real sister and beneficiary of the said will, which resulted into registration of crime being offence no.152 of 2021 registered at Dharavi Police Station for the offence punishable under Sections 465, 467, 471, 406, 404, 420, 120-B r/w. 34 of

Indian Penal Code.

2. As during investigation, incriminating material was found, the accused persons came to be charge-sheeted.

3. The prayer of the petitioners is for quashing of charge-sheet as referred above.

4. We are informed that the petitioner No. 1, Madhuri Koli has preferred testamentary proceedings before this Court, based on the aforesaid will dated 17 January 2020 which are dismissed in default for non-prosecution.

5. Mr. Patil, the learned Counsel appearing for the petitioner No.1, who is the Plaintiff in the Testamentary Suit on instructions states that the Testamentary Suit shall not be restored or revived as the parties have arrived at an amicable settlement. Since the statement is made on instructions, the same is accepted as an undertaking to this Court.

6. In response to the prayer for quashing, respondent-complainant has placed on record an Affidavit stating that in the proceedings under Section 438 of Cr.P.C. taken out by Ms. Madhuri i.e. petitioner No. 1 herein, the parties have arrived at settlement. As such, the complainant-respondent herein has extended consent for quashing.

7. The respondent-complainant is present in Court. Through learned APP Ms. Kaushik, respondent No.2 has stated that she has voluntarily executed the Consent Affidavit and stood by what has been stated in the Affidavit. According to the respondent-complainant, considering their blood relations and differences having been sorted out,

she is extending consent for quashing.

8. As this Court is of the view that the respondent No.2 has voluntarily extended the consent for quashing of the FIR having regard to law laid down in the matter of *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², no purpose will be achieved in keeping the present prosecution pending against the petitioners. That being so, Writ Petition is allowed in terms of prayer clause (a), subject to payment cost of Rs.25,000/- by each of the Petitioners to the Association of Parents of Mentally Retarded Children, in State Bank of India having Account No.00000010884930648, IFSC Code-SBIN0009056. The petitioners shall produce the copy of the receipt of payment of aforementioned cost in the Registry within a period of six weeks from today, failing which the proceedings shall stand revived.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466