

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

CRIMINAL WRIT PETITION NO. 2067 OF 2023

Sharad Bullakh
Age 82 years, Occ: Retired
r/at: 33/B Senadatta Peth.
Near Rajendra Nagar,
Pune 422030.

2. Allen S Gokavi
Age 62 years, Occ: Retired
r/at Shembekar Niwas,
Ambernath East, Tal. Ulhasnagar.
Dist. Thane

... Petitioners

Versus

1. The State of Maharashtra
Ambernath Police Station

2. Samiksha Shembekar
Shembekar Niwas,
Vadavli Section,
Ambernath (East),
Dist. Thane.

... Respondents

Ms Shalu Tanwar i/b Preeti Walimbe for Petitioners.

Mr J P Yagnik, APP for the State.

Ms Deepali Deherkar for Respondent No.2.

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

DATE : 13 JULY 2023

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

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The Petitioners have filed this Criminal Writ Petition under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR No.10 of 2004 registered with Ambernath Police Station for the offences punishable under Sections 406, 418, 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code and the proceedings arising therefrom. The petitioners are seeking to have quashed the FIR based on the fact that they have reached a mutually agreeable settlement with Respondent No.2.

4. At the outset, the learned counsel for Petitioners informs the Court that Petitioner No.1 has expired on 11 June 2023 and tendered his death certificate. The same is taken on

record and marked 'X' for identification. He submitted that the quashing of FIR is sought qua the Petitioner No.2 only. He submitted that Petitioner No.2 is a Senior Citizen suffering from many ailments. It is jointly stated by the learned counsel for the parties that many litigations between the parties have been going on for several years. These disputes have been amicably settled, and now a memorandum of understanding has been executed between them. They also mentioned that this case falls under the purview of the law laid down by 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

5. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

6. In this matter, Respondent No.2 has filed a consent affidavit dated 9 March 2023 on record. She is present before the Court and states that she has no objection for quashing the impugned FIR against Petitioner No.2, given their settlement. Upon questioning, she confirmed the contents of her affidavit and was identified by her counsel. The original Aadhar Card of Respondent No.2 was verified by the learned

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

APP, and a self-attested copy was placed on record.

7. Considering the fact that the dispute is of a civil nature and the parties have settled their dispute amicably, no purpose would be served by keeping the prosecution alive. The consent affidavit filed on behalf of Respondent No.2 supports the prayer to quash the FIR. Having said so, and on the facts noted above, the impugned FIR No.10/2004, registered with Ambernath Police Station, and the proceedings arising therefrom against the Petitioner No.2 needs to be quashed and set aside. Accordingly, the impugned FIR No.10/2004 and the proceedings arising therefrom are quashed and set aside qua Petitioner No.2 only, subject to the condition that Petitioner No.2 pay costs of Rs.10,000/- with High Court Legal Services Authority within three weeks of this order being uploaded.

8. Rule is made absolute in these terms, and the Petition is disposed of subject to payment of costs as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.