

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

CRIMINAL WRIT PETITION NO. 1266 OF 2023

Pratibha Sunil Kori & Anr.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

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Mr. Yogesh Dalvi, for the Petitioner.

Mr. K.V. Saste, APP for the Respondent/State.

**CORAM : SUNIL B. SHUKRE, AND
M.M.SATHAYE, JJ.**

DATE : 5th APRIL 2023

PC:-

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent Nos. 1 to 4/State. Learned Counsel for Respondent No. 5/ complainant waives service. Taken up for final hearing with consent of parties. This is connected with Criminal Writ Petition No. 1268 of 2023 which is being disposed of simultaneously as arising between same set of parties for same dispute giving rise to cross complaints. Both orders may be read with each other.

2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Criminal Procedure Code, the Petitioners are seeking to quash a crime bearing FIR No. 15 of 2021 registered with Sion police station, Mumbai, and consequent criminal case bearing No. 2122/PW/2021 pending before 51st Metropolitan Magistrate, Kurla, Mumbai for offences punishable under sections 406, 420, 465, 468, 471 r/w. 34 of the Indian Penal Code.

3. Learned Counsel for the Petitioners and Respondent No. 5/complainant jointly state that the matter is amicably settled and Respondent No. 5 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime.

4. Perusal of FIR dated 25th January 2021 as well as the affidavit of complainant affirmed on 18th March 2023, shows that the matter is arising between brother-sister and husband of sister in respect of mother's property. The consent affidavit states that the matter is now amicably settled and consent terms have been filed in civil suit and

it is mentioned that the complainant is not pressing charges and has consented for quashing of FIR.

5. Petitioners (sister and brother in law) and the Respondent No. 2 / complainant (brother) are present personally in the Court today and are identified by their respective advocates. On enquiry, they state that the settlement has been arrived at without any pressure or coercion.

6. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private and civil in nature arising out of property dispute between siblings and as such, this Court is of the view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed.

7. In the net result, we pass the following order:

- (i) Writ Petition is allowed.
- (ii) The FIR No. 15 of 2021 registered with Sion police station, Mumbai, and consequent criminal case bearing No. 2122/PW/2021 pending before 51st Metropolitan Magistrate, Kurla, Mumbai for offences punishable under sections 406,

420, 465, 468, 471 r/w. 34 of the Indian Penal Code are quashed and set aside.

(iii) This is subject to condition precedent that Petitioner Nos. 1 and 2 & Respondent No. 5 shall, each deposit an amount of Rs. 10,000/- within 4 weeks from today, in the account of Bombay High Court Legal Aid Fund (Account No. 60045304283, Bank of Maharashtra, Fort Branch, IFSC Code MAHB0000002).

(iv) It is clarified that if the amounts are not deposited as stipulated above, by any of the parties, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.

(v) Rule is made absolute in the above terms. No order as to costs.

(vi) Stand over 6 weeks for reporting compliance.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)