

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

CRIMINAL WRIT PETITION NO. 1268 OF 2023

Kiran Laxman Udmale ...Petitioner
Versus
Sunil Ramajor Kori and Ors. ...Respondents

Mr. Harshaln Suryawanshi a/w Mr. Mohd Riyaz and Mr. P Memon,
for the Petitioner.

Ms. S.D. Shinde, 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 No. 2 State. Learned Counsel for Respondent No. 1 / complainant waives service. Taken for final hearing with consent of parties. This is connected with Criminal Writ Petition No. 1266 of 2023 which is being disposed off simultaneously as arising out of 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 227 of the Constitution of India read with section 482 of the Criminal Procedure Code, the

Petitioner is seeking to quash criminal cases bearing nos. C.C.No. 746/PW/2016 arising out of F.I.R. No. 17 of 2016 for offences punishable under sections 384, 386 r/w. 34 of the Indian Penal Code & C.C.No. 1495/PW/2022 arising out of F.I.R. No. 394 of 2017 for offences punishable under sections 452, 506(2), 323, 504 r/w. 34 of the Indian Penal Code, both pending before 12th Court, Metropolitan Magistrate at Bandra, Mumbai.

3. Learned counsels for the Petitioner and Respondent No. 1/complainant jointly state that the matter is amicably settled and Respondent No. 1 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime.

4. Perusal of FIRs dated 11.01.2016, 14.09.2017 & as well as the affidavit of complainant affirmed on 18th March 2023, shows that the matter is arising between husband and sister and brother 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 prayed for quashing of FIR.

5. Petitioner (brother) and the Respondent No. 1 / complainant (brother-in-law) 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 brother-in-law 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 following order:

(i) Writ Petition is allowed.

(ii) Criminal cases bearing nos. C.C.No. 746/PW/2016 arising out of F.I.R. No. 17 of 2016 for offences punishable under sections 384, 386 r/w. 34 of the Indian Penal Code & C.C.No. 1495/PW/2022 arising out of F.I.R. No. 394 of 2017 for offences punishable under sections 452, 506(2), 323, 504 r/w. 34 of the Indian Penal Code, both pending before 12th

Court, Metropolitan Magistrate at Bandra, Mumbai are quashed and set aside.

(iii) This is subject to condition precedent that Petitioner & Respondent No. 1 shall, each deposit an amount of Rs. 10,000/- within 4 weeks from today, in the account of Bombay High Court Legal Aid and Fund (Account No. 60045304283, Bank of Maharashtra, Fort Branch, IFSC Code No. MAHB00000002).

(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 for 6 weeks for reporting compliance.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)