

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

WRIT PETITION NO. 1446 OF 2021

- 1) Raghvendra Krishnarao Kuber,)
Age : 56 years, Occu. : Service)
R/at – C/103, Green Vatika,)
Dattani Park, Thakur Village,)
Kandiwali (East), Mumbai-400 101.)
2) Vivek Shankar Nene,)
Age : 53 years, Occu. : Service,)
R/at – Flat No. 201, 2nd Floor,)
Akanksha Society, Prashant Nagar,)
Thane-400 622) ...Petitioners

VERSUS

1. The State of Maharashtra)
Through Police Inspector,)
Valiv Police Station,)
Taluka – Vasai, District – Palghar.)
2. Devji Shankar Mahali,)
Age – 44 years, Occu. - Agriculturist,)
R/at – House No. 1123, Mahali Niwas,)
Ramabai Ambedkar Nagar, Sativali,)
Vasai (E), Dist. Palghar) ...Respondents

Mr. Sandeep Phatak, for petitioners.

Mr. J. P. Yagnik, APP.

Ms. Sunayana Kashid i/b. Mr. Vedchetan Patil, for respondent No. 2.

**CORAM : REVATI MOHITE DERE &
SANDEEP V. MARNE, JJ.**

DATE : 14th FEBRUARY, 2023.

ORDER (Per SANDEEP V. MARNE, J.)

1. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned A.P.P. waives notice on behalf of the respondent No. 1 – State. Ms. Sunayana Kashid waives notice on behalf of the respondent No. 2.

2. By this petition, filed under the provisions of Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure 1973, petitioners challenge First Information Report bearing CR No. 1059 of 2018 registered on November 20, 2018 at the instance of Respondent No. 2 in Waliv Police Station, Vasai for alleged offences punishable under Sections 420, 465, 467, 468, 471, 474, 506 r/w. 34 of the Indian Penal Code, 1860 and under Section 3(1) (f) (g) & (q) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**FIR**). The FIR was initially lodged against Lalita Dhirajlal Shaha and Himanshu Narendra Shaha. It appears that the present petitioners (Raghvendra Krishnarao Kuber and Vivek Shankar Nene) were also added subsequently as accused Nos. 3 and 4 in the FIR.

3. The FIR has been lodged by the second respondent (Devji Shankar Mahali) in connection with the land at Survey No. 41/02 Admeasuring 1 H. 01 R situated at Sativali, Tal. Vasai, Dist. Palghar, in which respondent No. 2 and his family members claim tenancy rights. It is alleged that by way of registered lease deed Smt. Lalita Dhirajlal Shaha obtained leasehold rights in the land and on the strength of same, leave and license agreement came to be executed in favour of M/s. Sai Services Pvt. Ltd. on July 7, 2017. Petitioners are employees of M/s. Sai Services Pvt. Ltd. It is allegation of the second respondent that petitioners, who are signatories to the leave and license agreement, have grabbed the tribal land in connivance with Smt. Lalita Dhirajlal Shaha and her grandson Himanshu Narendra Shaha.

4. Learned counsels appearing for Petitioner and second Respondent submit that a settlement has taken place between M/s. Sai Services Pvt. Ltd. and the family of second respondent. In pursuance of said settlement, M/s. Sai Services Pvt. Ltd. has handed over possession of the land in favour of Mr. Himanshu Narendra Shaha on March 6, 2021, who, in turn, has handed over possession of the land to the second respondent and his family on

March 9, 2021. Accordingly respondent No. 2, who is complainant in FIR, has sworn an affidavit dated July 25, 2022 confirming receipt of possession of the land on March 9, 2021 and expressing desire to withdraw his complaint and all allegations against petitioners. He has accordingly consented for quashing of FIR.

5. We have perused the Affidavit of Respondent No. 2, (Devji Shankar Mahali) who is personally present before us and has confirmed contents of his affidavit dated July 25, 2022. A copy of Aadhar Card has been produced on record. The learned APP has verified the same and confirmed identity of respondent No. 2. The respondent No. 2 confirms before us that all the disputes with petitioners have been amicably settled and upon receipt of possession of the land, he and his family members do not have any grievance against petitioners.

6. Prima facie, it is doubtful whether offences as alleged are made out as against the petitioners, considering their role. Be that as it may, considering the nature of the dispute, amicable settlement between the parties, the affidavit of the respondent No. 2 and having regard to the judicial pronouncements of the Apex Court in **Gian**

Singh vs. State of Punjab & Anr.¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.²***, there is no impediment in allowing the petition.

7. The petition is accordingly allowed. The FIR bearing C. R. No. 1059 of 2018 registered on November 20, 2018 in Waliv Police Station, Taluka Vasai, District Palghar *qua* petitioners only is quashed and set aside.

8. Petition is disposed of accordingly. Rule is made absolute in the aforesaid terms.

9. All concerned to act on the authenticated copy of this order.

SANDEEP V. MARNE, J.

REVATI MOHITE DERE, J.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466