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

CRIMINAL WRIT PETITION NO. 2017 OF 2023

- 1) Sahibsingh Jagdeepsingh Hayer
Age – 36 years, Occ. Business
- 2) Karandeepsingh Sukhbirsingh Hayer,
Age – 41 years, Occ. - Business.
Both r/o. Baba Hakim Singh Park Bungalow,
Rambaug, Lane No. 6,
Kalyan (W), Dist. Thane
...Petitioners

Versus

- 1) State of Maharashtra
Through Investigating Officer
in F.I.R. No. 198/2015 registered
with Ulhasnagar Police Station,
Dist. Thane.
- 2) Rajesh Ramu Karosiya
Age- 52 years, Occ. Cleaner,
R/o. Brk No. 30, Opp. Valmiki
Nagar, Near Shahad Fatak,
Ulhasnagar – 421001
Dist. Thane.
....Respondents

AND

CRIMINAL WRIT PETITION NO. 2035 OF 2023

- Deepak Ramu Karosiya
Age – 45 years, Occ: Service,
R/o. Brk No. 30, Opp. Valmiki
Nagar, Near Shahad Fatak,
Ulhasnagar – 421001
Dist. Thane.
....Petitioner

Versus

- 1) State of Maharashtra
Through Investigating Officer
in F.I.R. No. 199/2015 registered
with Ulhasnagar Police Station,
Dist. Thane.
- 2) Karandeepsingh Sukhbirsingh Hayer,
Age – 41 years, Occu. - Business,
Both r/o. Baba Hakim Singh Park Bungalow,
Rambaug, Lane No. 6,
Kalyan (W), Dist. Thane

...Respondents

Mr. Sidheshwar N. Biradar for Petitioner in Writ Petition No. 2017/2023 and for Respondent No. 2 in Writ Petition No. 2035/2023

Mr. Arjun Jeswani for Respondent No. 2 in Writ Petition No. 2017/2023 and for Petitioner in Writ Petition No. 2035 of 2023

Mr. K. V. Saste APP for the State

**CORAM : NITIN W. SAMBRE &
GAURI GODSE, JJ.
DATE : 30th JUNE 2023**

P.C. :

1. Heard learned counsel for the parties.
2. Rule. By consent of the parties, rule is made returnable forthwith. The petitions are taken up for final disposal. The learned counsel appearing for the parties waive notice on behalf of the respective parties.

3. Criminal Writ Petition No. 2017 of 2023 is filed for quashing and setting aside C.R. No. I-198 of 2015, dated 2nd August 2015, registered against the Petitioners with the Ulhasnagar police station, Thane, for the alleged offences punishable under sections 324, 295 r/w section 34 of the IPC and under section 3(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities Act), 1989 as well as for quashing and setting aside a charge-sheet registered as Sessions Case Nos. 314 of 2016 pending before the learned Additional District and Sessions Court, Kalyan. The said FIR is lodged pursuant to a complaint filed by respondent no. 2.

4. Criminal Writ Petition No. 2035 of 2023 is filed for quashing and setting aside C.R. No. I-199 of 2015, dated 2nd August 2015, registered against the petitioner with the Ulhasnagar police station, District Thane, for the alleged offences punishable under sections 326, 323, 427 and 506 r/w 34 of the IPC, as well as for quashing the charge-sheet registered as RCC No. 590 of 2016 pending before the learned Judicial Magistrate, First Class, **Ulhasnagar**. The said FIR is lodged pursuant to a

complaint filed by respondent no. 2.

5. Thus, the aforesaid Writ Petitions are filed invoking the inherent powers of this Court under section 482 of Criminal Procedure Code, 1973, along with Article 226 of the Constitution of India.

6. Petitioner No.2- Karandeepsingh Sukhbirsingh Hayer, in Criminal Writ Petition No. 2017 of 2023, is respondent no. 2 in Criminal Writ Petition No. 2035 of 2023. Respondent No.2- Rajesh Ramu Karosiya, in Writ Petition No. 2017 of 2023, had filed FIR No. 198 of 2015 on 2nd August 2015 against the Petitioners- Sahibsingh Hayer and Karandeepsingh Hayer in Writ Petition No. 2017 of 2023. On the same day, i.e. on 2nd August 2015, Respondent No.2-Karandeepsingh Sukhbirsingh Hayer had filed FIR No. 199 of 2015 against Petitioner in Writ Petition No. 2035 of 2023-Deepak Ramu Karosiya and others. Deepak Karosiya is brother of Rajesh Ramu Karosiya.

7. Both the aforesaid FIRs are with respect to the same incident that occurred on 2nd August 2015. The Petitioners in Writ Petition No. 2017 of 2023 are claiming to be co-owners in

respect of a plot bearing Survey No. 2447, situated at Ulhasnagar. It is the case of the said Petitioners that when they had visited the said property for carrying out levelling through JCB, the said Respondent No.2, i.e Rajesh Ramu Karosiya and others had gathered at the spot and raised objections, due to which there was commotion between the parties and Petitioner No.2 – Karandeepsingh Hayer sustained injuries. It is further the case of the parties that in the said commotion, Respondent No.2 in Writ Petition No. 2017 of 2023, i.e. Rajesh Ramu Karosiya, also suffered injuries. Hence, Rajesh Ramu Karosiya filed FIR No. 198 of 2015.

8. It is the case of the parties that pursuant to the said incident, Petitioner No.2 in Writ Petition No. 2017 of 2023 filed FIR No. 199 of 2015 against Deepak Ramu Karosiya, who is Petitioner in Criminal Writ Petition No. 2035 of 2023. Thus, the accused- Karandeepsingh Hayer, in FIR No. 198 of 2015, is the complainant in FIR No. 199 of 2015. The brother of said Deepak Karosiya is the complainant in FIR No. 198 of 2015, which is the subject matter of Writ Petition No. 2017 of 2015.

FIR No. 199 of 2015 is the subject matter of Criminal Writ Petition No. 2035 of 2023. Hence, both the Writ Petitions are heard and disposed of by this common order.

9. It is the case of the parties that after the filing of the aforesaid FIRs and before filing the charge sheet, the parties have amicably settled their dispute and have executed a Memorandum Of Understanding dated 7th November 2015 ('said MOU'). The said MOU is signed by Karnadeepsingh Hayer and Rajesh Ramu Karosia, i.e. respective complainants in both the aforesaid FIRs. Copy of the said MOU is annexed as 'Exhibti-E' to both the Writ Petitions. Hence, in view of the amicable settlement between the parties, the aforesaid Writ Petitions are filed for quashing both the FIRs and the chargesheets.

10. Pursuant to FIR No. 198 of 2015, a chargesheet bearing case No. 314 of 2016 is filed against the petitioners in Criminal Writ Petition No. 2017 of 2023 and one Jagdeepsingh Balwantsingh Hayer. The Petitioners in the said writ petition have stated that the said Jagdeepsingh has expired on 30th August 2018. A copy of the death certificate is also annexed in the

aforesaid writ petition at 'Exhibit-D'.

11. Pursuant to FIR No. 199 of 2015, a chargesheet bearing RCC No. 590 of 2016 is filed against the petitioner in Criminal Writ Petition No. 2035 of 2023. The said chargesheet indicates that accused Vijay Teli is not charge-sheeted as he is absconding. The charge sheet further indicates that the same is filed, reserving liberty to file supplementary chargesheet as per section 173(8) of Cr. P.C. on further investigation, if any.

12. The Petitioners in both the Writ Petitions have thus prayed for quashing and setting aside the aforesaid FIRs as well as both the chargesheets.

13. In Criminal Writ Petition No. 2017 of 2023, an affidavit dated 31st March 2023 duly sworn by respondent No.2-Rajesh Karosiya (complainant) is tendered, and the same is taken on record and marked 'X' for identification with today's date. In the said affidavit, Respondent No.2 has admitted the execution of the said MOU and has further stated that the disputes between him and the petitioners are amicably settled. The Respondent No.2 has thus given No Objection to quash the FIR 198 of 2015

as well as the chargesheet registered as Sessions Case No. 314 of 2016. The respondent No.2 is present in the court and is identified by his Advocate. Along with the affidavit, the self-attested copy of Adhaar card of Respondent No.2 is also annexed.

14. In Criminal Writ Petition No. 2035 of 2023, an affidavit dated 31st March 2023 duly sworn by Respondent No.2-Karandeepsingh Hayer (complainant) is tendered, and the same is taken on record and marked 'X -1' for identification with today's date. In the said affidavit, Respondent No. 2 has admitted the execution of the said MOU and has further stated that the disputes between him and the Petitioners are amicably settled. The Respondent No.2 has thus given No Objection to quash the FIR No. 199 of 2015 as well as the chargesheet registered as RCC No. 590 of 2016. The Respondent No.2 is present in the court and is identified by his Advocate. Along with the affidavit, the self-attested copy of the Adhaar card of Respondent No.2 is also annexed.

15. Learned APP has verified the aforesaid affidavits as well

as the original Adhaar card of the parties. The Petitioners and Respondent No.2 in both petitions are present and are identified by their respective Advocates.

16. Considering the nature of the allegations, the nature of the dispute between the parties, the amicable settlement between the parties, the No Objection of the complainant in both cases and the settled principle of law laid down by the Hon'ble Supreme Court in the case of *Gian Singh v State of Punjab and Anr*¹ and *Narinder Singh and Ors v State of Punjab and Anr*², we do not see any impediment in allowing both the Writ Petitions. The writ Petitions are accordingly allowed, and the aforesaid FIRs, as well as the chargesheets, are quashed and set aside by passing the following order:

I) By consent of the parties, FIR No. 198 of 2015, dated 2nd August 2015, registered with the Ulhasnagar Police Station, District Thane, for the alleged offences punishable under sections 324, 295 r/w section 34 of Indian Penal Code and under

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and chargesheet registered as Sessions Case No. 314 of 2016 pending before the learned Additional District and Sessions Court, Kalyan against the Petitioners in Criminal Writ Petition No. 2017 of 2023 is quashed and set aside.

II) By consent of the parties, FIR No. 199 of 2015, dated 2nd August 2015, registered with the Ulhasnagar Police Station, District Thane, for the alleged offences punishable under sections 326, 323, 427 and 506 r/w section 34 of Indian Penal Code and chargesheet registered as RCC No. 590 of 2016 pending before the learned Judicial Magistrate, First Class, **Ulhasnagar** against the Petitioner in Criminal Writ Petition No. 2035 of 2023 is quashed and set aside.

III) In view of the law laid down by the Hon'ble Supreme Court in the decision of *Gian Singh and*

Narinder Singh and considering the facts of the case, the petitioners in Criminal Writ Petition No. 2017 of 2023 shall deposit cost of Rs. 25,000/- each with the Mumbai Police Welfare Fund, bearing Account No. 465010100008693, IFSC No. UTIB0000465 within a period of three weeks from today.

IV) Rule is made absolute in aforesaid terms in both the Criminal Writ Petitions.

V) Stand over to **28th July 2023** for recording compliance.

VI) All the parties to act on the authenticated copy of this order.

(GAURI GODSE, J.)

(NITIN W. SAMBRE,J.)