

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

CRIMINAL WRIT PETITION NO.2492 OF 2022

Subhash Keshavrao Sawant & Anr.

..Petitioners

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Dheeraj Patil i/by Drupad Patil, for the Petitioners.

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

Mr. Rugwed Kinkar, for the Respondent No.2.

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

DATE : 10th AUGUST, 2023

PC.

1. The damage to the immovable property has resulted into registration of offence being Crime No.363 of 2022 registered with Shahupuri Police Station for an offence under Sections 448, 451, 427, 506 r/w 34 of IPC.

2. Both the counsels have informed that Special Civil Suit No.116 of 2023 was initiated by the present petitioners against the complainant under Sections 36 and 37 of the Specific Relief Act seeking specific performance in which compromise decree came to be passed vide order below Exh.1 and 39 on 23rd February, 2023. The said decree reads thus :-

ORDER

1. *Present suit and counter claim is decreed in terms of joint compromise pursis (Exh.39) vide Order XXIII, Rule 3 of the Code of Civil Procedure, 1908.*
2. *The defendant is directed to withdraw his complaint against plaintiff submitted to Shahupuri Police Station Kolhapur in terms of joint compromise pursis (Exh.39).*
3. *Joint compromise pursis (Exh.39) shall be the part of decree.*
4. *Decree be drawn-up accordingly.*

3. Based on above, counsel for the respondent No.2/complainant has tendered affidavit extending consent for quashing in compliance of the compromise decree.

4. The consent affidavit is taken on record tendered by counsel for the respondent No.2/complainant. The respondent No.2/complainant is duly identified by the said counsel, so also, learned APP has verified the identity of the respondent No.2/complainant from his Aadhaar Card.

5. When confronted, the respondent No.2/complainant Mr. Deepak Kanhyalal Keshwani who is physically present in the Court has admitted contents of the consent affidavit and submits that they have resolved the issue through the aforesaid civil proceedings thereby drawing a compromise decree. In compliance thereof, he is extending consent for quashing.

6. In view of aforesaid statement, no purpose will be served in keeping present proceedings pending against the petitioners. That being so, in view of law laid down by the Apex Court in the matter of *Gian Singh Vs. State of Punjab & Anr.* reported in (2012)10 SCC 303 and *Narinder Singh & Ors. Vs. State of Punjab & Anr.* reported in (2014) 6 SCC 466, we deem it appropriate to allow the petition.

7. The petition as such stands allowed in terms of prayer clause (b), subject to payment of cost of Rs.25,000/- to be paid by each of the petitioners with the Central Police Welfare Fund within period of four weeks and copy of the payment of cost be produced before the Registry within same period, failing which the order of quashing the proceedings shall stand automatically revived and this Court will be constrained to proceed against the petitioners in accordance with law.

6. With the above observations, the petition stands disposed of.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]