

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5148 OF 2021

Iklakh Gafar Dabbawalla @ Haji and Ors.. ... Petitioners.

Versus

The State of Maharashtra and Anr. ... Respondents.

Mr. Satyavrat Joshi, i/by Mr. Samay Pawar for the Petitioners.

Ms. S.D. Shinde, APP for the Respondent No.1-State.

Mr. Kamran S. Shaikh, for Respondent No.2.

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : June 15, 2023.

ORDER (Per : Sharmila U. Deshmukh, J.):

1. Heard.

2. The Petitioners are chargesheeted for the alleged offences punishable under Sections 447, 379, 341, 141, 143, 149, 427, 506 of the Indian Penal Code, 1860, at the instance of Respondent No.2, with Santacruz Police Station, Mumbai, arising out of FIR being C.R.No.331 of 2018. The quashing of the chargesheet and the consequent proceedings being ***Police case PW/7100672/2019***

pending before the MM Court, Bandra, Mumbai is sought on the premise that the dispute between the Petitioner and the Respondent No.2 has been amicably settled and the same is reduced in writing in the form of Memorandum of Understanding (MoU), which is executed between the parties on 1st January, 2021.

3. It appears from the allegations in the FIR that the parties are owners of premises adjacent to each other and a dispute arose between them in respect of occupation and possession of open terrace premises, which led to complaint and cross-complaint being lodged by the parties.

4. In view of the compromise entered into between the parties, the Respondent No.2 has extended his consent for quashing of the subject FIR bearing C.R.No.331 of 2018 and the consequent proceedings being *Police case PW/7100672/2019 pending before the MM Court, Bandra, Mumbai*. The Respondent No.2-Complainant is present in-person and has reiterated his consent for quashing of the petition. He is identified by his counsel through his passport, copy of the relevant pages whereof are tendered on record.

5. Learned APP has placed on record the communication

dated 15th June, 2023 addressed by the Senior Police Inspector, Juhu Police Station, which states that as against the Petitioner herein, there are six NCs registered. Be that as it may. The fact remains that the parties have amicably settled the dispute and the dispute in question appears to be in respect of open terrace and the allegation is that the iron grill and other materials were removed.

6. Considering the nature of dispute and the factum of compromise which is recorded in the MoU dated 1st January, 2021, we deem it appropriate to quash and set aside the chargesheet arising out being FIR No.331 of 2018 and the consequent proceedings being *Police case PW/7100672/2019 pending before the MM Court, Bandra, Mumbai*, as we are of the opinion, that no fruitful purpose would be achieved by continuation of the criminal proceedings.

7. In view of the above, the writ petition stands allowed in terms of prayer clause "A", which reads thus:

"This Hon'ble Court be pleased to set aside chargesheet dated 12.03.2019 in the *Police case PW/7100672/2019 pending before the MM Court, Bandra, Mumbai* for offences punishable under Section 447 379 341 141 143 149 427 506 of I.P.C. registered with Santacruz Police

Station, Mumbai as unconstitutional, arbitrary, illegal, void-ab-initio and is violative of Article 21 of Constitution of India;”

. subject to the payment of costs of Rs.50,000/- to be paid by the Petitioners and the Respondent No.2 each to Kritika Law Library within a period of four weeks from today. A copy of the receipt evidencing the payment, as directed above, shall be filed with the Registry, to be placed in the present proceedings.

8. Needless to state that in event, the costs as directed above is not paid with time specified, the order quashing the proceedings shall stand automatically recalled and the petition to be listed for direction within a period of one week thereafter.

9. Subject to the above terms, the writ petition stands allowed.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]

(This order is corrected pursuant to the Speaking to the Minutes of the order dated 7th October, 2023.)