

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3251 OF 2022**

1. Kishor Nana Patil	]	
2. Dilip Nana Patil	]	Petitioners
Vs.		
1. The State of Maharashtra	]	
2. Bhavana Bharat Patil	]	Respondents
		

Mr. Ashley Cusher, for Petitioners.

Mr. Y.M. Nakhwa, A.P. P, for Respondent No.1-State.

Ms. Priyanka Tiwari, for Respondent No.2.

Mr. S.S. Solankar, A.P.I, Tulinj Police Station.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 24th January, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]

1. Heard.

2. Rule.

3. Rule is made returnable forthwith, with the consent of the parties. Petition is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1-State and Ms. Tiwari, learned Counsel waives notice on behalf of respondent No.2.

5. By this petition under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C'), the petitioners seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.499 of 2021 with Tulinj Police Station, District Palghar, for the alleged offences punishable under sections 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code (for short "I.P.C") and consequently, the proceeding pending before the learned Judicial Magistrate First Class, Vasai, Palghar being R.C.C No.608 of 2021. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as follows.

7. Respondent No.2- Bhavana Bharat Patil, is the first informant. Her grandmother - Vithabai Narayan Patil died on 23rd January, 1992. Deceased Vithabai has a daughter namely Manibai Keshav

Patil, who had also died on 30th January, 2019. Manibai Keshav Patil has six issues. Out of them, respondent No.2 is also a daughter of the deceased Manibai. Other offsprings are Aruna Namdev Patil, Meena Deepak Raut, Bharati Ramesh Patil, Mukta Sagar Patil and Manoj Keshav Patil. Deceased Vithavai has several other relatives at Mauje Moregaon, Nalasopara (East) whose details are given in the F.I.R.

8. The said family had an ancestral land at Mauje Moregaon, viz: Survey No.52, Hissa No.2, Survey No.52, Hissa No.10 and Survey No.52, Hissa No.11 and Survey No.52, Hissa No.13. Respondent No.2 came to know that after the death of Vithabai, her share in Survey No.52, Hissa No.2, Survey No.52, Hissa No.10, Survey No. 52, Hissa No.11 and Survey No.52, Hissa No.13 was wrongfully transferred in the name of petitioners No.1 and 2 by the relatives of Vithabai Patil on the basis of a Power of Attorney on a stamp paper of Rs.200 denomination.

9. In short, it is alleged that the petitioners have committed forgery for the purpose of cheating and used a forged document as genuine one, in furtherance of their common intention (forged

thumb impression of Vithabai) by executing a fake power of attorney.

10. Pursuant to an F.I.R lodged by respondent No.2, offences as alleged came to be registered against the petitioners. After investigation, charge-sheet came to be filed against the petitioners.

11. The parties have now appeared before this Court and submit that the dispute between them has been amicably settled.

12. Meena Deepak Raut, sister of respondent No.2 is unable to attend the Court due to her health issue. Photostat copy of the medical certificate given by Dr. Nitin A Raje of Lilavati Diagnostic Centre is tendered on record. Her statement came to be recorded by the Investigating Officer from Tulinj Police Station on 20th December, 2022 as she is one of the witness in the said case. She has stated in her statement that she has no objection for quashing the criminal proceedings against the petitioners. She has stated before the Investigating Officer that due to some misunderstanding, respondent No.2 had lodged subject F.I.R against the petitioners. Photostat copy of the Aadhar Card of said Meena Raut duly attested

by her is annexed with the statement recorded by the A.P.I.

13. Respondent No.2 has sworn an affidavit dated 21st July, 2022 before the Notary stating that the complaint was made by her against the petitioners due to sheer misunderstanding, confusion and anger. She has further stated that she has no objection for quashing of the F.I.R/proceeding initiated at her behest against the petitioners, in view of the amicable settlement.

14. Respondent No.2 is present in the Court. On being questioned, respondent No.2 reiterates what is stated by her in her affidavit. Learned Counsel appearing for respondent No.2 has tendered photostat copy of the Aadhar Card of respondent No.2 duly attested by respondent No.2. The same is taken on record. Learned Counsel for respondent No.2 has identified respondent No.2. Learned A.P.P has verified the original Aadhar Card of respondent No.2.

15. Learned Counsel for the respondent No.2 has placed on record affidavits of; (1) Manoj Keshav Patil - brother of respondent No.2 dated 15th December, 2022, (2) Aruna Namdev Patil - sister

of respondent No.2 dated 13th December, 2022 (3) Bharti Ramesh Patil - sister of respondent No.2 dated 13th December, 2022 (4) Mukta Sagar Patil - sister of respondent No.2 dated 13th December, 2022 (5) Meena Deepak Raut - sister of respondent No.2 dated 13th December, 2022. Photostat copies of Aadhar Cards of the aforesaid persons are annexed with their affidavits. In their affidavits, they have stated that in view of the amicable settlement between petitioners and respondent No.2, they have no objection for quashing the aforesaid C.R./criminal proceedings.

16. Considering the nature of the dispute, amicable settlement between the parties and affidavit of respondent No.2, affidavits of brother and sisters of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**², there is no impediment in allowing the petition.

17. The petition is accordingly allowed. The F.I.R bearing C.R. No.499 of 2021 registered with Tulinj Police Station, District

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Palghar, as against the petitioners and consequently, the proceeding pending before the learned Judicial Magistrate First Class, Vasai, Palghar being R.C.C. No.608 of 2021, are quashed and set aside.

18. The petitioners and respondent No.2 to deposit a sum of Rs.20,000/- with the **Central Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060**, as costs. The said costs to be deposited within four weeks from today.

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

20. Matter be listed for recording compliance of deposit of costs, on **21st February, 2023**.

21. All concerned to act upon an authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]