

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 967 OF 2023**

Arun Savalaram Kashikar & Ors.

.....Applicants

Vs.

State Of Maharashtra & Anr.

.....Respondents

Ms. Sonal V. Parab a/w Mr. Jairaj D. Sawant i/by Rajeev Sawant & Associates for the Applicants.

Mrs. Sangeeta D. Shinde APP for the Respondent No.1-State.

Ms. Shere Banu Mithi i/by Mr. Yusuf Mithi for the Respondent No.2.

**CORAM : A. S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.**

DATE : 31st AUGUST, 2023.

PC:-

1) Leave to amend to incorporate challenge to C.C. No.3134/PW/2023 pending on the file of Metropolitan Magistrate, 24th Court Boriwali, Mumbai, granted.

Amendment be carried out forthwith and in any event, during the course of the day.

2) By the present Application under Section 482 of the Code of Criminal Procedure the Applicants, accused have prayed for quashing of C.C. No.3134/PW/2023 pending on the file of Metropolitan Magistrate, 24th Court Boriwali, Mumbai, arising out of C.R. No.201 of 2021 registered with Malvani Police Station, Mumbai under Sections 452, 380, 504, 506, 427, 323, 141, 143, 146, 147 and 149 of the Indian Penal Code, with the consent

of Respondent No.2, the victim.

3) Ms. Parab, learned Advocate for the Applicants submitted that, the Applicants and Respondent No.2 have settled their differences and disputes amicably and have executed Consent Terms dated 21st July, 2023. The said Consent Terms are is at page No.19 (Exh-B) of the Application. He submitted that, the Respondent No.2 has also filed an Affidavit dated 21st July, 2023 duly affirmed before a Notary Public. The Respondent No.2 has given his consent voluntarily for quashing of crime in question.

3.1) Perusal of Affidavit indicates that, he has admitted the fact of execution of Consent Terms. In paragraph No.6 thereof, he has given his no objection for quashing of the present crime.

3.2) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 21st July, 2023 and his 'no objection' for quashing of the crime in question.

4) In view of the above, we are inclined to quash C.C. No.3134/PW/2023 pending on the file of Metropolitan Magistrate, 24th Court Boriwali, Mumbai arising out of C.R. No.201 of 2021 registered with Malvani Police Station, Mumbai.

5) As we expressed our opinion for quashing of said C.C. No.3134/PW/2023 pending on the file of Metropolitan Magistrate, 24th Court Boriwali, Mumbai, learned Advocate for the Applicants on instructions submitted that, the Applicants will pay a cost of Rs.25,000/- to

Kirtikar Law Library, High Court, Mumbai within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

5.1) We direct the Applicants to pay a cost of Rs.25,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from the date of uploading of the Order on the official website of Bombay High Court.

5.2) Applicants to deposit the said cost of Rs.25,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

6) In view of the above and subject to payment of cost, Application is allowed in terms of prayer clauses (a) and (a1).

7) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Application shall stand automatically revived and in that event, the trial Court will proceed with the case expeditiously.

8) List the Application on 27th September, 2023 under the caption '*for reporting compliance*' of present Order.

9) All the concerned to act on the basis of an authenticated copy of this Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)