

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

Writ Petition No. 3367 of 2017

Dinesh Haribhai Dodia & others ... Petitioners

v/s.

The State of Maharashtra & anr. ... Respondents

Mr Niranjan Mundargi a/w. Ashutosh Shukla @ Enait Shaikh for the petitioners.

Mr J P Yagnik, APP for the State.

Mr Rohan Sawant a/w. Bhavana Umredkar for respondent No.2.

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

DATE : 7th July 2023

P.C. :

Heard learned counsel for the parties.

2. Respondent No.2-Complainant, a partnership firm of which petitioner No.1 is a partner and petitioner Nos. 2 to 4 are the family members, suffered an arbitration award before the sole Arbitrator based on the Consent Terms dated 5 August 2021. Accordingly, an award was drawn by the Arbitrator on 17 August 2021.

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3. In this background, learned counsel for respondent No.2 – Complainant has placed on record an affidavit which is sworn by the Complainant extending consent for quashing of the proceedings being Crime No.1/2017 dated 12 August 2017 under Sections 406, 420,466,467,468,471,506 and 34 of IPC only against Petitioner Nos. 1 to 4.

4. In the aforesaid background, counsel for the petitioner Mr. Niranjan Mundargi submits that petitioner No.5 be either permitted to file fresh petition questioning the criminal prosecution initiated against him in the above referred crime or he be granted liberty to apply for discharge, in case he is charge-sheeted.

5. Having regard to the development *viz* extending consent in favour of petitioner Nos.1 to 4 for quashing, we deem it appropriate to dispose of the petition with following order:

(a) That the Consent Affidavit filed by respondent No.2-Complainant is admitted to be true and correct through the counsel representing him so also the learned APP who has interacted with the Complainant.

(b) The Complainant has produced alongwith his

Consent Affidavit the documents for disclosing his identity
viz the Pan Card and Aadhar Card.

6. Having regard to the fact that dispute was arising out of the differences between the parties i.e. petitioner Nos.1 to 4 and respondent No.2 who happen to be Partners of development firm and they having decided to part with their differences which has resulted into registration of offence referred above and in view of the law laid down by the Apex Court in the matter of *Gian Singh v/s. State of Punjab & anr.*¹ and observations of the Allahabad High Court in the case of *Faujdar Singh v/s. State of U.P. through Superintendent of Police, CBI*², we deem it appropriate to allow the present petition to the extent of quashing by prosecution against the petitioners for an offence punishable under Sections 406, 420, 466, 467, 468, 471, 506 and 34 of IPC.

7. The petition of the petitioners stands disposed of with liberty as prayed for herein above.

R.N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata Panjwani, P.S.

1 (2012) 10 SCC 303

2 2015 SCC OnLine All 4183