



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3436 OF 2017**

Babulal P. Gandhi and Ors.

...Petitioners.

V/s.

Janardhan S. Mhatre and Ors.

...Respondents.

Mr. R.D. Soni a/w Mr. Sujay Gawade and Ms.Mansi Sawant, i/by Shree and Co. for the Petitioners.

Mr. S.J. Chourasia i/by Ashoka Law, for Respondent No.1.

Ms. S.D. Shinde, APP for the Respondent-State.

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

DATE : 10th October, 2023.

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

1. Heard Mr. Soni, learned counsel for the Petitioners, Mr.Chourasia, learned counsel for Respondent No.1 and Ms.Shinde, learned APP for the Respondent-State

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioners seek quashing of C.R.No.63 of 2016 registered with Kharghar Police Station consequent to the Order dated 3rd February, 2016 passed by the learned Judicial Magistrate First Class, Panvel, in an Application being Cri.M.A.No.126 of 2016 filed by the Respondent No.1 under Section 156(3) of the Code of Criminal Procedure, 1973. C.R.No.63 of 2016 has been registered for the offences punishable under Sections 420, 465, 467, 468, 469, 471 read with Section 34 of the IPC.

Quashing is sought on the premise that, the matter has been amicably settled between the Petitioners and the Respondent No.1.

3. Mr. Soni, learned counsel for the Petitioners submits that, there was civil litigation between the parties which came to be settled, wherein the consent terms were entered into and that subsequently the civil suit was withdrawn by the Respondent No.1. He further submits that, the chargesheet has not been filed in the present case till today.

4. Mr.Chourasia, learned Advocate for the Respondent No.1 submits that, the dispute between the parties has been resolved amicably and the grievance has been redressed. He submits that, the Respondent No.1 has filed an Affidavit dated 7th August, 2023 extending his unconditional consent for quashing of the FIR.

5. It appears that, the dispute between the parties arose out of a claim in respect of an immovable property, which has been settled between the parties. As the parties have reached at a compromise, the civil litigation has been withdrawn. The Respondent No.1 has filed his Affidavit dated 7th August, 2023, duly notarized before the Notary Public. Paragraph No.3 of the Affidavit states that, he is giving his unconditional consent for quashing of the FIR, as the dispute does not survive any more.

6. Having regard to the nature of the dispute between the parties

and the fact that the compromise has now been entered into between the parties, whereby the parties have decided to end their civil and criminal litigation, we see no impediment in quashing the C.R.No.63 of 2016.

7. In view thereof, we are inclined to quash the C.R. No.63 of 2016 registered with Kharghar Police Station consequent to the Order dated 3rd February, 2016 passed by the learned Judicial Magistrate First Class, Panvel, against the Petitioners.

8. As we expressed our opinion for quashing of C.R. No.63 of 2016 registered with Kharghar Police Station, learned Advocate for the Petitioners, on instructions submitted that, the Petitioners will pay a cost of Rs.5,000/-, per person, totaling to Rs.40,000/-, to the 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.

9. We direct the Petitioners to pay a cost of Rs.5,000/-, per person, totaling to Rs.40,000/-, to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

Petitioners to deposit the said cost of Rs.5,000/-, per person, totaling to Rs.40,000/-, within stipulated period as noted above and

submit receipt of the same in the Registry of this Court.

10. In view of above and subject to payment of cost, the C.R. No.63 of 2016 registered with Kharghar Police Station consequent to the Order dated 3rd February, 2016 passed by the learned Judicial Magistrate First Class, Panvel, against the Petitioners is quashed and set aside. Petition is allowed.

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

12. List the petition on board on 7th November, 2023, under the caption 'for reporting compliance' of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)