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WP-3981-2022..odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3981 OF 2022

Mohammed Hamid Khan & Others

...Petitioners

V/s.

The State of Maharashtra & Another

...Respondents

Mr. Shivkumar Mishra i/b Mr. Vinayak Tare for the Petitioners.

Mr. J. P. Yagnik APP for Respondent No. 1 (State).

Mr. A. S. Pande for Respondent No. 2.

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

DATE : 20th September, 2023.

P. C. :

1. Heard Mr. Shivkumar Mishra, learned counsel appearing for the Petitioners, learned APP for the Respondent-State and Mr. A. S. Pande for Respondent No. 2.

2. By this Petition, the Petitioners seek quashing of the proceeding being M.E.C.R. No.10 of 2018 registered with Juhu Police Station, Mumbai for the alleged offences punishable under Section 420, 467, 468, 471 of the Indian Penal Code.

3. Learned counsel appearing for the Petitioners submits that, pursuant to an application under Section 156(3) of the Code of Criminal Procedure, the M.E.C.R. No.10 of 2018 came to be registered against the

Petitioners. He further submits that, the dispute between the parties has been amicably settled.

4. Learned counsel appearing for Respondent No. 2 submits that, the dispute between the parties was a property dispute and the same is now settled by executing Memorandum of Understanding dated 1st June, 2022. He further submits, on instructions of Respondent No. 2, who is present in person, that he has no objection for quashing of the M.E.C.R. No. 10 of 2018.

5. The FIR came to be lodged pursuant to an order passed by the Metropolitan Magistrate in an Application filed under Section 156(3) of the Code of Criminal Procedure filed by Respondent No. 2. The allegation of Respondent No.2 was that, the signature of the Respondent No. 2 was forged on Conducting Agreement, whereby the garage premises was demolished by the Municipal Corporation. Subsequently, on 1st June, 2022 a Memorandum of Understanding has been executed between the Petitioners and the Respondent No. 2. As per Clause No. 5 of Memorandum of Understanding, the Respondent No. 2 agreed to withdraw the M.E.C.R. No. 10 of 2018 against the Petitioners. The Consent Affidavit of Respondent No.2 dated 5th September, 2022 states that Respondent No.2 has no objection for

quashing of the said crime. The contents of Affidavit is reiterated before this Court by the of Respondent No. 2 who is present in person.

6. The parties have amicably settled the dispute amongst themselves and have executed Memorandum of Understanding and have decided to give quietus to their dispute. In our opinion, no fruitful purpose will be achieved by continuing criminal prosecution against the Petitioners.

7. As we expressed our opinion for quashing of the said crime, i.e., M.E.C.R. No.10 of 2018 registered with Juhu Police Station, Mumbai, learned advocate for the Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.25,000/- each, totaling to Rs.1,25,000/-, to the Central Police Welfare Fund within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

8. We direct the Petitioners to pay a cost of Rs.25,000/- each, totaling to Rs.1,25,000/-, to the Central Police Welfare Fund within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

Details of the bank account for payment of cost are as under:-

Bank Name :- Axis Bank Limited.

Branch Name :- Worli, Mumbai (M.H.), Mumbai-400 025

Account Name :- Central Police Welfare Fund

Account Number :- 914010029005759

IFSC Code :- UTIB0000060

Petitioners to deposit the said cost of Rs.1,25,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

9. In view of above and subject to payment of cost, petition is allowed in terms of prayer clause (b).

10. 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 investigating agency shall complete the investigation of present crime expeditiously.

11. List the petition on board on 23rd October 2023, under caption 'for reporting compliance of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)