

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4301 OF 2022

1. Mr. Amit Hanuman Pandey
Adult 41, Indian Inhabitant,
Occupation–business,
Right Channel Constructions Pvt. Ltd.
Unit No.202–203, Sakhi Apartment,
2nd Floor, Near Dheeraj Residency,
Narvane School, M.G. Road,
Kandivali (West), Mumbai – 400 067.

2. Mr. Devendra Hanuman Pandey
Adult 57, Indian Inhabitant,
Occupation–business,
Right Channel Constructions Pvt. Ltd.
Unit No.202–203, Sakhi Apartment,
2nd Floor, Near Dheeraj Residency,
Narvane School, M.G. Road,
Kandivali (West), Mumbai – 400 067.

3. Mr. Sanjay Hanuman Pandey
Adult 49, Indian Inhabitant,
Occupation–business,
Right Channel Constructions Pvt. Ltd.
Unit No.202–203, Sakhi Apartment,
2nd Floor, Near Dheeraj Residency,
Narvane School, M.G. Road,
Kandivali (West), Mumbai – 400 067.

4. Smt. Gayatri Hanuman Pandey
Adult 80, Indian Inhabitant,
Occupation-housewife,
residing at 402, A-Wing, Cosmos Building,
3rd Cross Lane, Lokhandwala Complex,
Andheri (West), Mumbai.

5. Bhagwandas Mohanlal Parekh
Adult 73 years, Occupation-Retired
Residing at C-912, Rock Enclave,
Hindustan Naka, Kandivali (West),
Mumbai – 400 067.

6. Lalit Mohanlal Shah
Adult 72 years, Occupation-Retired,
residing at Ronik Apartment,
Flat No.502, 5th Floor,
Opp. Sai Nagar, M.G.Road,
Kandivali (West),
Mumbai – 400 067.

7. Mansukhlal Nandlal Ghia
Adult 75 years, Occupation-Retired,
Flat No.402, 4th Floor, Labh Sarita CHS Ltd.
Opp. Shamrao Vithal Bank Ltd.,
M.G. Road, Kandivali (West),
Mumbai – 400 067.

.. Petitioners

Vs.

1. The State of Maharashtra
At the instance of Kandivali Police Station,
Mumbai.

2. Mr. Dilipkumar J. Raichura,
Adult-65 years, Indian Inhabitant,
residing at Flat No.104,
A-Wing, 1st Floor, Nishita Building,
Opp. Bobby Shopping Centre,
Near Junction of M.G. Road & Link Road,
Dahabukar Wadi, Kandivali (W),
Mumbai – 400 067.

.. Respondents

- Mr. Prasad D. Borkar, for the Petitioners.
- Ms. K.H. Rajani, for Respondent No.2.
- Mr. J.P. Yagnik, APP for Respondent No.1-State.

**CORAM : SUNIL B. SHUKRE &
M.M. SATHAYE, JJ.**

DATE : 29th MARCH, 2023.

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

1. Heard.
2. Rule.
3. Rule is made returnable forthwith. With the consent of the parties, the petition is taken up for final disposal at the stage of admission itself.
4. The complainant Mr. Dilipkumar Raichura has filed an affidavit giving his no objection for allowing this petition stating therein that he has amicably settled the dispute with the petitioners thereby agreeing to

withdraw all the allegations and counter-allegations made against each other. The affidavit further states that the complainant has filed Consent Terms dated 02.07.2022 in the Commercial Suit No.19 of 2016; thereby agreeing to withdraw the complaint i.e. MECR No.282 of 2017 registered against the petitioners.

5. The complainant is personally present before this Court and is identified by his learned counsel. He states that the settlement so arrived at between him on the one hand and the petitioners on the other is voluntary and acceptable to him. It appears to us that basically the dispute between them is of private nature.

6. On going through the allegations made in the FIR and what has been stated by the complainant in his affidavit of no objection, we are of the opinion that underlying dispute behind the crime involved in the present petition is private in nature and has no element of public policy in it. That being so, we find no difficulty in accepting the settlement so arrived at between the parties.

7. In view of above, the petition is allowed and it is directed that the FIR vide Crime No.MECR No.282 of 2017 registered with Kandivali Police Station, Mumbai for the offences punishable under Sections 408, 420, 471 & 144 read with Section 34 of the Indian Penal Code, 1860

and also all consequential proceedings pending before the Court of Metropolitan Magistrate, 17th Court at Borivali, Mumbai are hereby quashed and set aside subject to the following conditions:-

- (i) Each of the Petitioner Nos.1 to 7 and Respondent No.2 shall deposit an amount of Rs.25,000/- each as expenses of the legal proceedings in the account of the Mumbai Police Welfare Fund, AXIS Bank, Lamington Road Branch, Account No.465010100008693, IFSC Code No.UTIB0000465, within a period of four weeks from the date of receipt of this order, failing which the order shall stand automatically vacated and the petition shall be listed before this Court for directions;
- (ii) Rule is made absolute in the aforesaid terms;
- (iii) The Petition is disposed of. No costs.

[M.M. SATHAYE, J]

[SUNIL B. SHUKRE, J.]