

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.5151 OF 2019**

Devichand Umedmal Gandhi & Ors. ...Petitioners
V/s.
The State of Maharashtra & Anr. ...Respondents

Mr.Sanjeev Kadam i/b Mr.Sandesh More, for the Petitioners.
Mr.S.S. Hulke, APP for the Respondent-State.
Mr.Ravi Dwivedi, for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.**

DATE : 30th JUNE 2023

PC.

1. By the present Petition under Article 226 of Constitution of India and under Section 482 of the Cr.PC., Petitioners have prayed for quashing of C.C. No.6001019/PW/2019 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai, arising out of C.R. No.32 of 2019 registered with Chunabhatti Police Station, Mumbai under Section 354, 337, 323, 504 and 506 read with 34 of the Indian Penal Code, by Prayer Clause (B-(i)) with the consent of Respondent No.2.

2. Mr.Kadam, learned Advocate for the Petitioners submitted that, Petitioner Nos.1 and 2 and Respondent No.2 have

resolved their differences and disputes and have amicably settled the matter. He submitted that Respondent No.2 has given her consent for quashing of the said crime in question.

3. Learned Advocate for Respondent No.2 has tendered across the bar an Affidavit dated 28th June 2023, duly affirmed before a Notary Public.

In para No.3 of her affidavit, it is stated that she and Petitioner Nos.1 and 2 are residing in the same vicinity and both the parties through their family members and relatives have mutually settled the dispute and they mutually decided to compound/withdraw the present case. In paragraph No.6 of the said affidavit, Respondent No.2 has given her 'no objection' for quashing of the crime in question.

4. Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her affidavit dated 28th June 2023 and her 'no objection' for quashing the said crime.

5. In view of the above, we are inclined to quash C.C. No.6001019/PW/2019 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai, arising out of C.R. No.32 of 2019 registered with Chunabhatti Police Station, Mumbai.

6. As we expressed our opinion for quashing of said C.C. No.6001019/PW/2019 pending on the file of Metropolitan

Magistrate, 60th Court, Kurla, Mumbai, learned Advocate for Petitioners, on instructions, submitted the Petitioners would pay a cost of Rs.5,000/- each to Kirtikar Law Library, Mumbai within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

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

Petitioners to deposit the said cost of Rs.5,000/- each within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

8. In view of above and subject to the payment of cost, C.C. No.6001019/PW/2019 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai, arising out of C.R. No.32 of 2019 registered with Chunabhatti Police Station, Mumbai is quashed.

9. It is made clear that, if the cost is not paid within stipulated period as mentioned above, this Application shall stand revived automatically and in that event, the trial Court will proceed with the said C.C. No.6001019/PW/2019 expeditiously.

10. List the Application on 19th July 2023 under caption 'for reporting compliance' of present Order.
11. All concerned to act on the basis of an authenticated copy of this Order.

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)