

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

CRIMINAL WRIT PETITION NO. 4379 OF 2022

Paramjit Khersingh Ghai and Ors. ..Petitioners
V/s.
The State of Maharashtra & Anr. ..Respondents

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CRIMINAL WRIT PETITION NO. 3219 OF 2022

Mayur Shivram Deolekar and Ors. ..Petitioners
V/s.
The State of Maharashtra & Anr. ..Respondents

Mr. Kuldeep Patil a/w Saili Dhuru i/b Neha Maru for the
Petitioners.

Mr. K.V. Saste, APP for the Respondent/State.

Mr. Ranjeet Patil for Respondent No.2.

Mr. Ayub Ziauddin Shaikh, Petitioner No.2 and Qamar Umar
Iqbal Siddiqui, Petitioner No.4 present in WP/4379/2022.

Mr. Mayur Deolekar, Petitioner No.1, Irshad Mehendi, Petitioner
No.2, Phoriz Khan, Petitioner No.3, Damini Prabhu, Petitioner
No.4 present in WP/3219/2022.

Mr. Suresh Soni, Respondent No.2 in both petition present.

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

DATE : 30th MARCH 2023

P.C.

1. Rule. Rule is made returnable forthwith. Learned APP
waives service on behalf of Respondent/State. Heard finally by
consent of parties.

2. Both these petitions are filed by 8 petitioners, who have been arraigned as accused persons in Crime No. 29/2011 registered with Police Station Malvani, Mumbai for offences punishable under Sections 465, 467, 468, 471, 420, 406, 120(B) read with Section 34 of IPC. Therefore, both these petitions are being disposed of by this common order.

3. The crime which is registered against the Petitioners has been investigated into and now after filing of a chargesheet in the crime, Criminal Case bearing CC No.1302/PW/2012 is pending on the file of learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai.

4. During the pendency of the aforesaid criminal proceedings, the Petitioners and Respondent No.2 in both the petitions, reached an amicable settlement in order to put at rest the dispute that was going on between them which provided foundation to filing of criminal complaint by Respondent No.2 against these Petitioners. In this criminal complaint, not only these 8 Petitioners have been made as accused, but there was another person by name Shivram Gangaram Deolekar, who was also made an accused. However, during pendency of the criminal proceedings, he expired and it is not known as to whether or not, any formal order has been passed by the Trial Court for abatement of criminal proceedings against the deceased Shivram

Deolekar. A copy of death certificate is tendered by the learned counsel for the Petitioners across the bar, which is taken on record and marked "X" for identification. On its perusal, we are satisfied that the accused Shivram Deolekar is no more and therefore, it is obvious the criminal proceedings against him have stood expired with effect from date of his death which is 24.02.2016.

5. The parties have filed on record the Consent Terms. The complainant i.e. Respondent No.2 has also filed his affidavit of consent with no objection. We have gone through them and we are satisfied that the dispute which lay below Crime No. 29/2011 registered with Malvani Police Station, Mumbai has been amicably settled by the Petitioners and the complainant i.e. Respondent No.2. We have also made personal inquiry with the complainant and all the Petitioners involved in Criminal Writ Petition No. 3219 of 2022 and the Petitioner Nos. 2 and 4 involved in Writ Petition No. 4379 of 2022. Petitioner No. 1 and Petitioner No.3 in Writ Petition No. 4379 of 2022 were absent. All these Petitioners in both the petitions are represented by their Advocates. The learned counsel for the Respondent No.2 is also present. The Petitioners as well as Respondent No.2 who are present before the Court state that amicable settlement reached between them is voluntary in nature and has been arrived at without there being any inducement or pressure from anybody. Respondent No.2 in particular states that all the terms of

settlement are acceptable to him and he is satisfied with them. Although, physically he appears to be weak, he was found by us to be in fit mental state.

6. The learned counsel for the respective parties also endorsed to voluntary nature of settlement arrived at between the parties and accordingly they submit that these petitions deserve to be allowed on the basis of amicable settlement reached between the parties.

7. The dispute which has been amicably settled by the parties is purely of civil nature and therefore, the criminal complaint based upon such a dispute would have to be found by us to be private in nature, involving no angle of public policy. This satisfies all the parameters prescribed in the settled law. A useful reference in this regard may be made to the case of ***Narinder Singh & Ors. v/s. State of Panjab & Anr.***¹

8. In view of the above, we find no difficulty in allowing these petitions.

9. Hence, we pass following order.

(i) Criminal Writ Petition No. 3219 of 2022 and Criminal Writ Petition No. 4379 of 2022 are allowed in terms of prayer

1 (2014) 6 SCC 466

clause (a) which is common in both petitions and which reads as under:

“(a) That this Hon’ble Court may pass appropriate orders/writ/directions and quash and set aside the Criminal Case bearing C.C. No. 1302/PW/12 on the file of Ld. Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai which arouse from FIR No. I-29 of 2011 registered with Malvani Police Station, District-Mumbai for offences punishable under Section 465, 467, 468, 471, 420, 406, 120(B) read with Section 34 of IPC.”

(ii) This is, however, subject to the condition that each of the Petitioners shall deposit an amount of Rs.5,000/- each and Respondent No.2 shall deposit an amount of Rs.5,000/- in the account standing in the name of Mumbai Police Welfare Fund within a period of four weeks from the date of order, the details of which are given as below:

Bank Name: Axis Bank at Lamington Road Branch

A/c. No. 465010100008693.

IFSC Code : UTIB0000465

(iv) It is made clear that if there is any default committed by any of the parties in complying with the condition imposed hereinabove, this order shall stand cancelled automatically and the petition shall stand restored to the original file of this Court and shall be listed before this Court for Direction.

(v) Stand over to 08.06.2023 for 'Compliance'.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)