



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3331 OF 2023**

Ram Reddy Dundurapu and Ors.

...Petitioners.

V/s.

The State of Maharashtra and Ors.

...Respondents.

Mr. Abhaykumar Apte for the Petitioners.

Mr. Ajay Patil, APP for the Respondent-State.

Mr. Shantanu Phanse for Respondent Nos.2 and 3.

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

DATE : 10th October, 2023.

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

1. Leave to amend to incorporate challenge to R.C.C. No.427 of 2023 pending on the file of learned J.M.F.C., Court No.2, Solapur, granted.
2. Necessary amendment be carried out in the pleadings and prayer clauses forthwith and in any event, during the course of the day.
3. Heard Mr. Apte, learned counsel for the Petitioners, Mr. Patil, learned APP for the Respondent-State and Mr. Phanse, learned counsel for Respondent Nos.2 and 3.
4. By this Petition filed under Article 226 of the Constitution of India read with Section 482 of the Criminal Procedure Code, 1973, the Petitioners seek quashing of R.C.C. No.427 of 2023, pending on the file of the learned Judicial Magistrate First Class, Court

No.2, Solapur, arising out of C.R.No.226 of 2020, registered with Vijapur Naka Police Station, Solapur against the Petitioners for the offences punishable under Sections 395, 447, 427, 504 and 109 of the Indian Penal Code, 1860. Quashing is sought on the premise that, the matter has been amicably settled between the Petitioners and the Respondent Nos.2 and 3, legal heirs of the informant.

5. Mr. Apte, learned Advocate for the Petitioners submits that, the first informant has expired and the matter has been settled between the Petitioners and the legal heirs of the original first informant. He would further submit that, the offence under Section 395 of the IPC was subsequently dropped.

6. Mr. Phanse, learned Advocate for the Respondent Nos.2 and 3, who are the legal heirs of the original complainant submits that, the parties have amicably settled the dispute and do not wish to continue with the criminal prosecution. He points out the consent Affidavit dated 18th April, 2023 filed on record filed by the Respondent Nos.2 and 3 extending their consent to quashing of the proceedings.

7. The legal heirs of the original-complainant and the Petitioners have amicably settled their dispute. The allegation was that, the Petitioners had encroached upon the land of the complainant by breaking the wire fencing of the land. It appears that, there was civil litigation between the parties. The parties have decided to give quietus

to their dispute and the Respondent Nos.2 and 3 have filed their consent Affidavits dated 21st February, 2023 duly affirmed before the Superintendent, District and Session Court, Solapur. Paragraph No.9 of the consent Affidavits states that, the deponents of the consent affidavits do not have any objection to quashing of the proceedings against the present Petitioners. As such, we are inclined to allow the Petition in terms of prayer clauses 'a' and 'a1'.

8. In view thereof, we are inclined to quash the chargesheet being R.C.C.No.427 of 2023, pending on the file of learned Judicial Magistrate First Class, Court No.2, Solapur, arising out of C.R. No.226 of 2020, against the Petitioners.

9. As we expressed our opinion for quashing of R.C.C.No.427 of 2023, pending on the file of learned Judicial Magistrate First Class, Court No.2, Solapur, learned Advocate for the Petitioners, on instructions submitted that, the Petitioners will pay a cost of Rs.50,000/- lump-sum, 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.

10. We direct the Petitioners to pay a cost of Rs.50,000/- lump-sum, 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.50,000/- lump-sum, within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

11. In view of above and subject to payment of cost, the Petition is allowed in terms of prayer clauses 'a' and 'a1', which reads thus:

“a. The Hon’ble Court by exercising its powers under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure be pleased to quash the F.I.R. bearing No.226 of 2020 registered with Vijapur Naka Police Station against the Applicant, for the offences punishable under sections U/s.395, 447, 427, 504 & 109 of Indian Penal Code.

a1. The charge-sheet bearing RCC No.427/2023 pending on the file of JMFC, No.2, Solapur.”

12. 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.

13. 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.)