

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3823 OF 2023

1. Furquan Khan	]	
2. Mohammad Ishaq Talib	]	
3. Jahid Mohammad Ghose Shaikh	]	... Petitioners

V/s.

1. The State of Maharashtra	]	
2. Pravin Udaylal Jain	]	... Respondents

Ms. Lakshmi Raman for Petitioners.

Mr. Ajay Patil, A.P.P. for Respondent No.1-State.

Ms. Priya Pandey i/b. Mr. D.D. Singh for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 13th December 2023.

P.C. :

1) Petitioners, accused in CR No. 0221 of 2023, dated 10th March 2023, registered with Oshiwara Police Station, Mumbai under Sections 325, 323, 504 & 506 read with 34 of Indian Penal Code, have filed present Petition under Article 226 of the Constitution of India, for quashing of the said crime with the consent of Respondent No.2, the victim.

1.1) At the outset, learned Advocate for the Petitioners, on instructions, submitted that, till date the police have not filed chargesheet in the case. The said statement is accepted.

2) Learned Advocate for the Petitioners submitted that, the basic dispute between the Petitioners and Respondent No.2 is out of Leave and Licence Agreement and the occupation of the shop premises mentioned in the First Information Report. That after lodgment of the crime, the Petitioners and Respondent No.2 have resolved their disputes and differences and have settled the matter amicably. That the Respondent No.2 has given his consent for quashing of the crime in question. She therefore prayed that, the crime in-question may be quashed by allowing the present Petition.

3) Learned Advocate for Respondent No.2 submitted that, the Respondent No.2 has already filed an Affidavit dated 21st October 2023 duly affirmed before a Notary Public on record. In the said Affidavit, the Respondent No.2 has admitted the fact of resolving the dispute *inter se* between the parties, arising out of Leave and Licence Agreement. That the parties have decided to amicably resolve the disputes through mutual discussions and negotiations and have executed a Settlement Agreement. In para No.6 thereof, he has given his unconditional consent for quashing of the present crime.

3.1) Respondent No.2 is personally present in the Court and through his Advocate reiterated the contents of his Affidavit dated 21st October 2023 and his 'no objection' for quashing the said crime.

4) In view thereof, we are inclined to quash CR No. 0221 of 2023, dated 10th March 2023, registered with Oshiwara Police Station, Mumbai.

5) As we expressed our opinion for quashing of said CR No. 0221 of 2023, dated 10th March 2023, registered with Oshiwara Police Station, Mumbai, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.10,000/- each, totaling to Rs.30,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order. The said statement is accepted as an undertaking given to this Court.

6) We therefore direct the Petitioners to pay a cost of Rs.30,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, 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 :-

Account Name :- Advocates Association of Western India Generation Next.

Account Number :- 000110110007807.

Bank Name :- Bank of India.

Branch Name :- Mumbai Main.

IFSC Code :- BKID0000001.

Petitioners to deposit the said cost within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

7) In view of above and subject to payment of cost, Petition is allowed in terms of prayer clause (a).

8) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the Investigating Officer will complete the investigation of the present crime expeditiously.

9) List the Petition on board on 8th January 2024, under caption 'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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