

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1725 OF 2024**

Ketan Shah & Anr.

.....Petitioners

Vs.

Kushal Savla & Anr.

.....Respondents

Adv. Ashwini Achari a/w Adv. Taraq Sayed for the Petitioners.

Mr. J.S. Kini a/w. Mr. Aum Kini and Ms. Sapna Krishnappa for the Respondent No.1.

Mrs. M.M. Deshmukh, Addl. PP for the Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 6th MAY, 2024.****PC:-**

1) Leave to amend to mention correct provision of law for filing the Petition in the cause title, granted. Amendment be carried out forthwith and in any event, during the course of the day.

2) Petitioners, accused in C.C. No.31/PW/2020 pending on the file of 50th Metropolitan Magistrate, Vikhroli, Mumbai arising out of C.R. No.251 of 2019, dated 10th June, 2019, registered with Pantnagar Police Station, Ghatkopar, Mumbai under Sections 325, 323, 504 read with Section 34 of the Indian Penal Code, have filed present Petition under Article 226 of the Constitution of India for quashing of the said case with consent of the Respondent No.1, the victim.

2) Ms. Achari, learned Advocate for the Petitioners submitted that, the prelude for lodgment of crime is basically a civil dispute between the Petitioners-landlords and Respondent No.1-tenant. The Petitioners and Respondent No.1 have now amicably settled their disputes and have filed Consent Terms dated 8th November, 2023 before the learned Single Judge of this Court in WP No.6744 of 2023. In paragraph No.8 thereof the Respondent No.1 has agreed to give his consent for quashing of the present crime. That, in pursuance of the said Consent Terms dated 8th November, 2023, present Petition is filed for quashing of the said criminal case. She therefore prayed that, the said case/crime may be quashed with the consent of Respondent No.1.

3) Mr. Kini, learned counsel for the Respondent No.1 tendered across the bar his Affidavit dated 4th April, 2024, duly affirmed before a Notary Public. In the said Affidavit, the Respondent No.1 has admitted the fact of amicable settlement between the Petitioners and himself and has given his no objection for quashing of C.R. No.251 of 2019, dated 10th June, 2019, registered with Pantnagar Police Station, Ghatkopar, Mumbai.

3.1) Respondent No.1 is personally present in the Court and through his counsel reiterates the contents of his Affidavit dated 4th April, 2024 and his 'no objection' for quashing of the crime in question.

4) In view thereof, we are inclined to quash C.R. No.251 of 2019, dated 10th June, 2019, registered with Pantnagar Police Station, Ghatkopar,

Mumbai.

5) As we expressed our opinion for quashing of said C.R. No.251 of 2019, dated 10th June, 2019, registered with Pantnagar Police Station, Ghatkopar, Mumbai, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.25,000/- each, totaling to Rs.50,000/- 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.50,000/- 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.

6.1) 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.

6.2) 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 trial Court will proceed with the hearing of said C.C. No.31/PW/2020 expeditiously.

9) List the Petition on board on 14th June, 2024, under caption 'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed
by SANJIV
SHARNAPPA
MASHALKAR
Date:
2024.05.13
15:18:00 +0530