

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 6371 OF 2021**

Dhananjay V. Gawade ...Petitioner
Versus
1. The State of Maharashtra
2. Sanjay Y. Salunkhe ...Respondents

WITH

WRIT PETITION NO. 736 OF 2024

Amarjeet P. Yadav ...Petitioner
Versus
1. The State of Maharashtra
2. Sanjay Y. Salunkhe ...Respondents

Mr. Sachin Pawar for the Petitioner in WP/6371/21.
Ms Kusum Pandey for the Petitioner in WP/736/24.
Mr. Y.M. Nakhwa, APP for the Respondent.
Mr. Waqar Pathan i/b Mr. Vaibhav Karnik for Respondent No.2 in both petitions.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.**
DATE : 22.04.2024.

PC:-

1. Not on board. Upon mentioning, taken on production board.

2. Both these petitions under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure are filed to quash one and the same FIR No.271 of 2018 dated 1.4.2018 registered at Waliv Police Station, Dist. Palghar against the petitioners for the offences punishable under Sections 384, 386, 387, 448 read with 34 of the Indian Penal Code and Section 30 of the Indian Arms Act and the

criminal proceedings arising out of said FIR being R.C.C.No.895/2024 pending before the learned J.M.F.C., Vasai. Both these petitions are thus being disposed of by this common order.

3. The aforesaid crime came to be registered against the petitioners at the instance of respondent No.2/complainant. It is the case of prosecution that one of the co-accused had lodged the complaint with Vasai-Virar Municipal Corporation that the complainant had illegally constructed the building. It is alleged that the present petitioners and co-accused had demanded Rs.10 lakhs from the complainant to withdraw the said complaint.

4. The quashing of FIR and criminal proceedings is sought on the ground that there has been an amicable settlement between the parties and respondent No.2 is no longer desirous of prosecuting the case in question.

5. The learned counsel for the petitioners and respondent No.2 jointly submit that respondent No.2 has decided not to prosecute the case in question as the FIR was lodged due to some misunderstanding. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties.

6. The respondent No.2, who is identified by his Advocate, confirms the contents of Affidavit dated 11.09.2023 wherein he

has stated that he has no objection if the criminal case in question against the petitioners is quashed.

7. We have perused the charge-sheet. It appears that alleged complaint was made by the deceased co-accused Ashokkumar Dube. The alleged demand is not directly attributed to the present petitioners. Even otherwise, in view of the settlement between the parties, respondent No.2 is not going to support the prosecution case and therefore, the possibility of conviction is remote and bleak. Considering overall facts and circumstances, in our view, it would be expedient to allow both the petitions. In the result, the following order is passed.

ORDER

A] Criminal Writ Petition No. 6371 of 2021 and Criminal Writ Petition No. 736 of 2024 are allowed.

B] The proceedings in R.C.C.No.895/2024 pending before the learned J.M.F.C., Vasai arising out of FIR No.271 of 2018 dated 1.4.2018 registered at Waliv Police Station, Dist. Palghar for the offences punishable under Sections 384, 386, 387, 448 read with 34 of the Indian Penal Code and Section 30 of the Indian Arms Act are quashed and set aside *qua* the petitioners, subject to payment costs of Rs.50,000/- by each of them.

C] The petitioners shall pay the costs to the Advocates' Association of Western India Generation Next within a period of three weeks from today and submit the receipt of same in the Registry of this Court. The details of the bank account for payment of costs 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

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)