

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

CRIMINAL WRIT PETITION NO. 4339 OF 2019

Rajesh Kumar ...Petitioner
Versus
The State of Maharashtra & Another. ...Respondents

**WITH
CRIMINAL WRIT PETITION (ST.) NO. 5783 OF 2024**

Vijaykumar Govind Hegde ...Petitioner
Versus
State of Maharashtra & Another ...Respondents

**WITH
CRIMINAL WRIT PETITION (ST.) NO. 6192 OF 2024**

Rekha Rajesh Kumar & Another ...Petitioners
Versus
State of Maharashtra & Another ...Respondents

**WITH
CRIMINAL WRIT PETITION (ST.) NO. 6206 OF 2024**

Sangeeta Hegde & Another ...Petitioners
Versus
The State of Maharashtra & Another ...Respondents

**WITH
CRIMINAL WRIT PETITION (ST.) NO. 6239 OF 2024**

Sangeeta Vijaykumar & Ors. ...Petitioners
Versus
State of Maharashtra & Another ...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 4563 OF 2019**

Rajesh Kumar ...Petitioner
Versus
The State of Maharashtra & Another ...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 4649 OF 2019**

Rajesh Kumar	...Petitioner
Versus	
The State of Maharashtra & Another	...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 6532 OF 2021**

Rajesh Kumar	...Petitioner
Versus	
State of Maharashtra & Another	...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 1467 OF 2023**

Kamal Wadhwani	...Petitioner
Versus	
State of Maharashtra & Another	...Respondents

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Mr.Vikram Sutaria a/w Ms. Sharvari Joshi a/w Mr.Mithilesh Mishra a/w Mr.Agastya Desai, Mr. Hrituraj Singh Rajput a/w Mr.Nishi Singhvi, Advocate for the Petitioners in Writ Petition Nos.4339/2019, Writ Petition (St.) Nos.5383/2024, 6192/2024, 6206/2024, 6239/2024, 4563/2019, 4649/2019, 6532/2021 & 1467/2020.

Mr.Rishi Bhuta a/w Ms.Neha Patil, Ms.Bhumika Khandelwal, Ms.Saakshi Jha, Ms.Risha Rathod for Respondent No.2 in All Writ Petitions.

Mr.Rishi Bhuta a/w Ms.Neha Patil, Ms.Bhumika Khandelwal, Ms.Saakshi Jha, Ms.Risha Rathod, Advocate for the Petitioner in WP No.5783/2024.

Ms. Rutuja Ambekar, APP for the Respondent – State in all Petitions.

Mr.Salunkhe (P.S.I.) Borivali Police Station, Mumbai.

Mr. P. K. Gite (A.P.I.) Ullahasnagar Police Station, Thane.

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

DATE : 22nd APRIL, 2024.

P.C.:

1. The Petitioners in all these Petitions are seeking quashment of the First Information Report (for short 'FIR') registered against the Petitioners.

2. Criminal Writ Petition No.4339 of 2019 pertains to the FIR dated 06.07.2008 registered with Ullhasnagar Police Station vide C.R. No.I-163 of 2018 for offence punishable under Section 420 r/w Section 34 of Indian Penal Code (for short "IPC"). It was registered at the instance of Respondent No.2 in the Petition. The grievance of the complainant is that the accused was an American citizen. His original name was Rajesh Kumar Kundomol. He introduced the name of Babasaheb as his father and changed the pan cards by adding the name of Babasaheb Kumar to his name.

3. There is settlement between the Petitioner and Respondent No.2. The complainant has filed affidavit giving his consent for quashing the impugned FIR. The complainant is represented by the Advocate. The affidavit is taken on record.

4. The Petitioner had filed FIR vide C.R. No.I-408/2016 with Central Police Station on 28.09.2016 and the offence was

registered against Santosh Suryawanshi under Sections 420, 465, 467, 468, 471 of IPC. In the said FIR it was alleged that the accused therein has fabricated the documents relating to Aadhar Card, Pan Card, Driving License etc.

5. Learned Advocate for the Petitioner submitted that the parties have resolved the dispute. The complainant has no objection for quashing the FIR. There was no loss to Government or any authority. The Petitioner had lodged the complaint on 14.09.2016 about fabrication of his document. The FIR was registered on his complaint on 28.09.2016. The parties had executed the composite consent terms. Several terms are already implemented. As a part of Consent Terms, the impugned FIR is required to be quashed.

6. Learned Advocate for the Respondent/Complainant supported the prayer for quashing the FIR. It is submitted that there is settlement between the parties and the complainant has no objection for quashing the impugned FIR.

7. Learned A.P.P. submitted that the offence is of serious nature. The case involves fabrication of the documents such as birth certificate and other documents. Hence, FIR may not be quashed.

8. Criminal Writ Petition No.4563 of 2019 pertains to the FIR dated 19.06.2018 registered with Borivali Police Station, Mumbai vide C.R. No.303 of 2018 for offences under Sections 420 & 511 r/w Section 34 of IPC. The FIR has been registered at the instance of Respondent No.2. The grievance of the Complainant/Respondent No.2 is that the accused and the wife of complainant were involved in fabrication of documents relating to the income tax and other public authority and obtained verification certificate for using it in NSDL.

9. Learned Advocate for the Petitioner submitted that in the light of the consent terms executed between the parties as stated above the FIR needs to be quashed. There was no misuse of any documents. The FIR was registered at the instance of Respondent No.2 was at loggerhead with the Petitioner on account of strained relationship with the Petitioner and his wife.

10. Learned Advocate for the Respondent No.2 submitted that in view of settlement, complainant has no objection for quashing the impugned FIR. The Affidavit of Consent for quashing the FIR is on record.

11. Learned A.P.P. submitted that the offence is serious. The FIR may not be quashed with the consent of the complainant. The Police Inspector attached to Borivali Police Station filed Affidavit opposing the grant of relief for quashing the FIR. It is submitted that the accused had obtained verification form from the corporator with knowledge that the real name of the Petitioner is not Rajesh Babasaheb Kumar. The said document was submitted to Income Tax Department.

12. It is pertinent to note that the FIR was lodged at the instance of Respondent No.2. There is settlement between Respondent No.2 and the accused named in the FIR.

13. Criminal Writ Petition No.4649 of 2019 is with regards to challenge to the FIR dated 21.05.2017 registered with Goregaon Police Station, Mumbai vide C.R. No.206 of 2017 for offence under Section 420, 465, 468, 471 r/w Section 34 of IPC. It was registered at the instance of Respondent No.2. The grievance of complainant is that the accused have prepared duplicate birth certificate thereby committed offence of forgery. The FIR was registered for offences under Sections 420, 465, 468, 471 r/w Section 34 of IPC.

14. The complainant is represented by Advocate. The complainant has filed Affidavit dated 31.03.2024 stating that the

parties have resolved all issues between themselves and amicably settled the matters/litigation pending against each of other. They have entered into consolidated Consent Terms on 22.02.2024 duly signed and notarized by all the parties. In view of the Consent Terms dated 22.02.2024, the complainant has no objection for quashing the FIR No. 206 of 2017.

15. Learned Advocate for the Petitioner and Respondent No.2 jointly submitted that since the parties have resolved the differences, the FIR may be quashed. It is pertinent to note that the complainant in all the aforesaid FIRs is the same and there is settlement between the parties not to pursue the proceedings.

16. Learned A.P.P submitted that although the parties have settled the dispute, since the accused were involved in fabrication of document, the FIR may not be quashed.

17. Criminal Writ Petition No.6532 of 2021 pertains to the FIR dated 08.10.2016, registered with Kherwadi Police Station, Mumbai vide C.R. No.262 of 2016 for offences under Sections 420, 465, 467, 471 r/w Section 34 of IPC and Sections 43(A), 72(A) of Information Technology Act, 2000. The FIR is culminated into charge-sheet and the proceedings are pending before the Court of learned Metropolitan Magistrate, 32nd Court at Bandra, Mumbai

vide C.C. No.156/PW/2018 and C.C.No.1130/PW/2022. The complainant had alleged that the accused has acted in connivance with each other and prepared false birth certificates and changed the name of father and by utilizing the said document, prepared Aadhar Card and Pan Card. The FIR was registered against the Petitioner and the wife of Respondent No.2.

18. Learned Advocate for the Petitioner and Respondent No.2 submitted that in view of Consent Terms executed between the parties, the impugned FIR may be quashed. The complainant has filed Affidavit of Consent expressing his no objection for quashing the impugned proceedings. The complainant is represented by Advocate.

19. Learned A.P.P. objected for quashing the proceedings. It is submitted that the accused were involved in forgery of documents.

20. Criminal Writ Petition No.1467 of 2023 relates to the FIR bearing C.R.No. 206 of 2017 registered with Goregaon Police Station, Mumbai for offences under Sections 420, 465, 468, 471 r/w Section 34 of IPC. The co-accused has preferred Criminal Writ Petition No.4649 of 2019 which has been referred to herein above.

21. It is submitted that in view of settlement between the parties, the complainant has no objection for quashing the FIR under

challenge in this Petition. The complainant is represented by the Advocate. He has filed an Affidavit of Consent.

22. Learned A.P.P. opposed the prayer for quashing on the ground that the offence is relates to forgery.

23. Criminal Writ Petition (St.) No.5783 of 2024 pertains to proceedings in C.C. No.2746/PW/2018 arising out of FIR dated 27.07.2017 registered with Dahisar Police Station, Mumbai vide C.R. No.308 of 2017 for offences under Sections 377, 354, 420, 498-A, 406, 465, 467, 468, 471, 494, 323, 506(2) 509, of IPC and Sections 3 & 25 of the Indian Arms Act. The FIR was registered against the Petitioner and another person. The complainant/Respondent No.2 is the wife of Petitioner. The complainant has alleged that from 20.10.1999 onwards the accused had performed marriage with her without obtaining divorce from his first wife and cheated. She was ill treated, threatened and assaulted.

24. It is pertinent to note that the Petitioner herein is the complainant in all the aforesaid cases which are subject matter of the petitions referred to herein above and Respondent No.2 (wife of Petitioner) is also co-accused in some of the cases which are under challenge in the aforesaid Petitions. It is again submitted

that there is settlement between the parties and the complainant has no objection for quashing the impugned proceedings.

25. The complainant has filed Affidavit stating that the parties have joined hands after a period of more than seven years with numerous litigation across the State and have finally appeared before this Court for quashing by consent of the parties. Complainant is represented by the Advocate. The affidavit is taken on record.

26. Criminal Writ Petition No.6192 of 2024 relates to FIR registered with Goregaon Police Station, Mumbai vide C.R. No.206 of 2017 on 21.05.2017 for offences under Sections 420, 465, 468, & 471 r/w Section 34 of IPC. The said FIR has been challenged by the co-accused by preferring Criminal Writ Petition No.4649 of 2019 and Criminal Writ Petition No.1467 of 2023.

27. It is jointly submitted that there is settlement between the parties. In view of the Consent Terms, the complainant has no objection for quashing the impugned FIR or proceedings arising out of the said FIR. The Affidavit of the complainant giving consent for quashing the FIR indicate that he has no objection for allowing this Petition.

28. Criminal Writ Petition (St.) No.6206 of 2024 is preferred by the Petitioner challenging the FIR bearing C.R. No.303 of 2018 registered with Borivali Police Station, Mumbai on 19.06.2018 for offences under Sections 420, 511 r/w Section 34 of IPC. The FIR was registered at the instance of Respondent No.2, who is the husband of Petitioner No.1. The co-accused had preferred Criminal Writ Petition No.4563 of 2019 challenging the same FIR and the proceedings.

29. The complainant has no objection for quashing the FIR. The complainant is represented by Advocate. He has filed an Affidavit. The prosecution has opposed the prayer for quashing the ground as enumerated herein above.

30. Criminal Writ Petition (St.) No.6239 of 2024 relates to proceedings in C.C. No.157/PW/2018 arising out of FIR dated 08.10.2016 registered with Kherwadi Police Station, Mumbai vide C.R. No.262 of 2016 for offences under Sections 420, 465, 467, 471 r/w Section 34 of IPC. These proceedings are also under challenge in the Petition preferred by the co-accused viz. Criminal Writ Petition No.6532 of 2021.

31. The complainant has no objection for allowing the prayers in this Petition. The complainant has filed Affidavit. He is

represented by Advocate. The prosecution has opposed the prayer for quashing the FIR.

32. It is pertinent to note that the common parties were involved in all these proceedings which are under challenge on the ground that there is settlement between them. It was urged by the learned counsel for the Petitioner that the disputes were principally on account of differences between the accused Rajesh Kumar, Vijay Kumar Hegde and Sangeeta Vijaykumar. The wife of Vijay Kumar Hegde has also initiated the proceedings under Section 498-A of IPC as other offences as stated herein above. It is submitted that Rajesh Kumar is a citizen of USA since 2002. On 14.09.2016 he lodged the written complaint for alleging misused of his documents at the instance of one Santosh Suryawanshi. It was alleged that he had prepared forged birth certificate and obtained other fraudulent document in his name without his knowledge. It was realized that the genuine documents like Pan Card and Gazette were used for obtaining Birth Certificate and Aadhar Card. The FIR being C.R.No.I-408 of 2016 was registered on 28.09.2016 under Sections 420, 465, 467, 468 & 471 of IPC. Summary Report was filed before the concerned Court. Mr.Vijaykumar Hegde had filed four FIRs against Rajesh Kumar and Smt.Sangeeta Hegde. All the said FIRs

are under challenge before this Court in the aforesaid Petitions. Sangeeta Hegde had also lodged FIR against Vijaykumar Hegde. The dispute between them is settled. They have executed the Consent Terms dated 22.02.2024. Sangeeta Hegde had also filed two FIR against Vijaykumar Hegde vide C.R. No.308 of 2017 and 328 of 2017. The FIR bearing C.R. No.328 of 2017 registered with Dahisar Police Station for offences under Sections 354 (A) and 506 of IPC read with Sections 8 & 12 of the Protection of Children from Sexual Offences Act, (POCSO) 2012, Act was challenged by preferring Writ Petition (St.) No.5795 of 2024 which was disposed off vide order dated 01.04.2024 directing the trial Court to conclude the proceedings expeditiously. The parties had initiated phase-wise settlement as provided under the Consent Terms and have been taking the steps in order to reach its natural conclusion. Five FIRs are challenged by way of 9 different Petitions by different parties. Out of these four FIRs are filed by Vijaykumar Hegde and one FIR is filed by Sangeeta Hegde.

33. The prosecution has objected the Petitions by reading out the statements recorded by the Investigating Officer. Apparently out of all nine Petitions, two Petitions related to FIR lodged with Borivali Police Station. The four FIRs are overlapping in the nature.

It was contended by the learned counsel for the Petitioner that pan card has not been issued which is evident from the reply filed by the prosecution, wherein on last page there is a column "Remark" which mentions that such pan card applications of Rajesh Kumar were closed and hence it is evident that no new pan card with different name was issued in the name of Rajesh Kumar. It is further submitted that there is no wrongful loss to the Government Authorities or anyone nor there is wrongful gain to the accused. Petitioner has been paying Income Tax as per his Pan No.BOIPK1824H, having his birth date 02.05.1967 and pan card issued in the name of Rajesh Kumar has never been cancelled. It is further submitted that the parties along with their respective lawyers held several meetings and made efforts to settle the matter. They have entered into the composite consent terms. The parties have settled all the disputes and they have decided to put an end to all kinds of issues between Vijaykumar Hegde and Smt. Sangeeta Hegde and Rajesh Kumar. They have entered into joint and composite Consent Terms dated 22.02.2024 wherein it was agreed that the proceedings which are subject matter of these Petitions would be quashed. Parties have settled all the disputes. Thus, in stage wise settlement terms/consent terms, the parties have already completed stage1, stage2 and stage 3 & 4. In the event of

non-performance of any of the terms of the consent terms, the parties will go back to beginning from where they had started and and there will be revival of all the proceedings so far quashed and set aside and hence when the possibility of getting conviction by the prosecution the proceedings may be quashed.

34. It was further submitted that in view of settlement the parties have executed the Draft Consent Terms and filed the same before the National Company Law Tribunal, Court Room No.1, Mumbai Branch in CP No.20 of 2016. On 22.02.2024 Sangeeta Vijaykumar had gifted her 33.33 % share in the name of Vijaykumar. The parties have conducted a Board of Directors meeting on 22.02.2024 for effectively transferring the shares. Sangeeta Vijaykumar has re-validated her DIN number and has informed the concerned banks. She has addressed letters/correspondence to the Banks, Govt. Institutions, Bombay Municipal Corporation, various Police Authorities wherever she had lodged the complains stating that she has withdrawn her complaint and has no further grievances against Vijaykumar Hegde. On 26.02.2024 Vijaykumar Hegde has given his consent before the concerned courts to return the title documents of property bearing Flat No.B/1301 in the building known as Rustomjee's Oriana being and situated at MIG Colony, Bandra (East) Mumbai to Rajesh Kumar. The Criminal Revision

Application No.45 of 2024 filed for the return of the title documents of the said property bearing Flat No.B/1301 before the learned Sessions Court at Mazgaon has been disposed off in terms of the Consent Terms by an order dated 13.03.2024. Vijaykumar has handed over the Demand Draft of Rs.1 Crore out of the total settlement amount of Rs.5 Crores 25 Lakhs. On 22.02.2024 Vijaykumar has handed over the original registered agreement of Flat No.C-405 of Kashmiria Ceramics and the payment receipts and has also handed over the account statement and payment receipts with respect to the said flat. He has also handed over the original payment receipts for Flat No.C/1702 of Kashmiria Ceramics. He has also given his consent in writing for no objection to handover the peaceful and vacant possession of two Kashmiria flats. Mr. Vijaykumar has handed over the original title documents of Flat No.D/501 to Sangeeta Vijaykumar. He has provided confirmation of settlement of account with respect to loan taken by Sangeeta Vijaykumar from Shreenath Investment Company. On 15.03.2024 Vijaykumar has withdrawn the suit being Civil Suit No.1416 of 2024 in the High Court transferred Suit No.926 of 2016. On 20.03.2024 Sangeeta Vijaykumar has withdrawn the Domestic Violence case bearing No.82 of 2019 which was pending before the learned Metropolitan Magistrate court at Borivali Mumbai. on

20.03.2024 Mr. Vijay Kumar has withdrawn the Appeal No.256 of 2023 filed before the Sessions Court at Dindoshi. He has released the second installment of Rs.One Crore in favour of Sangeeta Vijaykumar. After undertaking all the aforesaid aspects, the parties have moved before this Court for quashing the impugned proceedings. There are certain steps which are remained to be complied with which would be complied after quashing these proceedings.

35. The learned counsel appearing for the Petitioner has relied upon the decision of the apex Court in the case of **Sheila Sebastian Vs. R. Jawaharaj and Anr.**¹, and another decision in the case of **Nikhil Merchant Vs. CBI**² and various other decisions in support of his contention that the proceedings could be quashed in view of the settlement between the parties.

36. From the facts narrated herein above it is implicit that the parties have executed composite Consent Terms and they have settled the dispute. Several Terms of Consent Terms are complied with. The dispute is primarily between the three parties which are referred to herein above. In the light of the factual matrix as stated above, the Criminal Proceedings can be quashed.

¹ (2018) 7 SCC 581

² (2008) 9 SCC 677

ORDER

i) Criminal Writ Petition No. 4339 of 2019, Criminal Writ Petition (ST.) No. 5783 Of 2024, Criminal Writ Petition (ST.) No.6192 of 2024, Criminal Writ Petition (ST.) No. 6206 of 2024, Criminal Writ Petition (ST.) No. 6239 of 2024, Criminal Writ Petition No.4563 of 2019, Criminal Writ Petition No. 4649 of 2019, Criminal Writ Petition No.6532 of 2021 and Criminal Writ Petition No.1467 of 2023 are allowed and disposed off.

ii) Criminal Proceedings pending before the concerned Court which are arising out of First Information Reports in all these Petitions are quashed and set aside.

iii) The Passport of the Petitioner Rajesh Kumar be handed over to him on compliance of Consent Terms and the amount of Rs.20 Lakhs deposited in the Court of learned Metropolitan Magistrate, 32nd Court at Bandra, Mumbai is allowed to be withdrawn by the Petitioner Rajesh Kumar on compliance of Consent Terms.

iv) The Petitioner in Criminal Writ Petition No. 4339 Of 2019, Criminal Writ Petition No. 4563 Of 2019, Criminal Writ Petition No. 4649 Of 2019, Criminal Writ Petition No. 6532 Of 2021 shall pay cost of Rs.50,000/- in each Petition and Petitioners in in Criminal Writ Petition No.1467 of 2023 & Criminal Writ Petition (ST.) No. 6206 of 2024, Writ Petition (St.) No.6239 of 2024, Criminal Writ Petition (st.) 6192 of 2024 shall pay cost of Rs.25,000/- in each Petition to Police Welfare Fund, Director General of Police, Maharashtra State,

Mumbai within a period of four weeks from today. The details of the bank account for payment of cost are as under:-

Bank Name : Axis Bank Ltd.

Branch Name : Worli, Mumbai [M.H.], Mumbai – 400 025

Account Name : Central Police Welfare Fund

Account No. : 914010029005759

IFSC Code : UTIB0000060

v) The receipt of payment of cost be produced in the Registry of this Court within **one week** thereafter.

vi) List the application for reporting the compliance after **six weeks**.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)