

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3251 OF 2023**

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| 1. | Kailash R. Khandelwal | |
| 2. | Ronak K. Khandelwal | ...Petitioners |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Bholuram Khandelwal(deceased) | |
| 3. | Chirag s/o. Late Bholuram Khandelwal | ...Respondents |

Mr. A.M. Saraogi for the Petitioners.
 Mr. V.A. Kulkarni, APP for the Respondent/State.
 Mr. Vikas Somawanshi i/b Mr. V.V. Ugle for Respondent No.3.
 Mr. Chirag Khandelwal, Respondent No.3 present through V.C.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.
DATE : 08.04.2024.**

PC:-

1. Learned Advocate Mr.Somawanshi is granted liberty to file Vakalatnama for respondent No.3 within one week.

2. The petitioners are challenging the proceedings in Case No.2930/PW/2013 pending before the Court of Learned Additional Chief Metropolitan Magistrate, 32nd Court at Bandra, Mumbai. The said proceedings are arising out of First Information Report (FIR) dated 7.4.2012 registered with Vakola Police Station, Mumbai vide C.R. No. 136 of 2012 for offences under Sections 364, 384, 385, 504 and 506 read with 34 of the Indian Penal Code (IPC).

3. The FIR was registered at the instance of respondent No.2 alleging that on 2.4.2012 the accused forcefully took him in the vehicle for obtaining signatures on certain property documents. The petitioner No.1 is the brother of complainant and petitioner No.2 is the son of petitioner No.1.

4. It is submitted that the complainant has expired on 29.4.2021 and before his death he has executed a writing in presence of community members that the matter is settled and the property is divided. The son of original complainant is present through V.C.. He has filed the affidavit giving his no objection for quashing the impugned proceedings.

5. Learned APP submits that the FIR was registered for various offences including Section 364 of the IPC.

6. Learned Advocate for the petitioners, however, brought to the notice the final report filed on completion of investigation, which indicates that the charge-sheet was filed only for offences under Sections 347, 348, 385, 504 and 506 read with 34 of the IPC.

7. From the tenor of FIR, it appears that the dispute was between the brothers with regard to the property. Son of the complainant is present through V.C. and has filed affidavit giving no objection for quashing the impugned proceedings. He is represented by Advocate.

8. Considering the fact that the matter relates to the dispute regarding property, the relationship between the complainant and accused and the consent given by complainant's son for quashing the impugned proceedings, the reliefs sought in the petition can be granted.

ORDER

A] Criminal Writ Petition is allowed.

B] The proceedings in Case No.2930/PW/2013 pending before the Court of Learned Additional Chief Metropolitan Magistrate, 32nd Court at Bandra, Mumbai arising out of FIR dated 7.4.2012 registered with Vakola Police Station, Mumbai vide C.R. No. 136 of 2012 against the petitioners are quashed and set aside, subject to payment of costs.

C] The petitioners shall pay the cost of Rs.25,000/- each to Advocates' Association of Western India Generation Next within a period of three weeks from today and submit the receipt of the 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.)