

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1280 OF 2024**

1. Vijay Suresh Raorane,
Age : 55 years, Occ.:Advocate,
R/at-D/48, Nandadeep Co-op. Hsg. Soc.,
Deonar Colony, Mumbai – 43.
2. Farid Masur Ahemad Saiyyad,
Age : 25 years, Occ.:Labourer,
R/at-Dr. Zakir Hussain Nagar,
Near Noorani Masjid, Galli No. 2,
Govandi, Mumbai – 43.
3. Santosh Shivajirao Pawar,
Age : 40 years, Occ.:Transport,
R/at-Shivneri Chawl, Room No. 2,
Bharatnagar (Old), Vashinaka,
Chembur, Mumbai – 43.
4. Jaganath Shivaji Aambilkar,
Age : 34 years, Occ.:None,
R/at-Navnath Chawl, Room No. 409,
Maharashtra Nagar, Mankhurd,
Mumbai – 88.
5. Mohd. Ali Moula Shaikh,
Age : 32 years, Occ.:Service,
R/at-Azeez Baug, Azad Nagar,
R. C. Marg, Chembur, Mumbai – 74.
6. Ganesh Bhagwan Bhise,
Age : 31 years, Occ.:None,
R/at-Bharat Nagar, R.S.D.F.
Office Chawl No. E, Mankhurd,
Mumbai – 88.
7. Santosh Kisan Vajikar,
Age : 40 years, Occ.:Service,
R/at-Mandvi Co-op. Hsg. Soc.,
Bldg. No. 12, Room No. 304,

Lallubhai Compound,
Mankhurd, Mumbai – 88.

8. Bharat Babulal Barai,
Age : 46 years, Occ.:None,
R/at-C-39, Nandadeep Society,
Deonar Municipal Colony,
Govandi, Mumbai – 88.
 9. Amol Dattaram Kibuskar,
Age : 34 years, Occ.:None,
R/at-G-3, Room No. 16,
Deonar Municipal Colony,
Govandi, Mumbai – 43.
 10. Mahendra Dattatray Naik,
Age : 55 years, Occ.:None,
R/at-Vadavli Gaon,
Gaondevi Co-op. Hsg. Soc.,
Chembur, Mumbai – 74.
 11. Vishal Viswas Kadam,
Age : 37 years, Occ.:None,
R/at-Kadam House, Sion Trombay Road,
Opp. Homi Bhabha Science Centre,
Mankhurd, Mumbai – 88.
 12. Rajesh Baburao Poorabhe,
Age : 37 years, Occ.:None,
R/at-Sahyadri Nagar B,
R. C. Marg, Vashinaka,
Chembur, Mumbai – 71.
 13. Anita Ajay Goregaokar,
Age : 42 years, Occ.:None,
R/at-D/3, Deonar Municipal Vasahat,
Nandadeep Co-op. Hsg. Soc.,
Deonar Colony, Mumbai – 43.
-Petitioners

Vs.

1. The State of Maharashtra
(At the instance of Trombay Police
Station in F.I.R. No. 306 of 2017).

2. Mustafa Gyasuddin Shaikh,
Age : 47 years, Occ.:Business,
R/at-Church Road, Bandrawala Chawl,
Mankhurd Station Road, Mankhurd,
Mumbai – 88.Respondents

Mr. Harshad Sathe a/w Ms. Manvi Sharma for the Petitioners.

Mr. Sukant A. Karmakar, A.P.P. for the Respondent-State.

Mr. Atharv A. Gridaye i/b Mr. Shashank C. Mangle for Respondent No. 2.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.
DATE : 21st AUGUST 2024.**

PC.:-

1) The Petitioners seek quashing of the criminal proceedings bearing CC No. 555 of 2018 pending before the Metropolitan Magistrate, 60th Court, Kurla, Mumbai arising out of FIR No. 306 of 2017 dated 26th October 2017 registered with Trombay Police Station, Mumbai for the offences punishable under Sections 143, 144, 147, 148, 149, 427 and 506 of the Indian Penal Code, 1860 ('IPC').

2) It is the case of the Respondent No.2 that, as usual he left his home at around 8 am. in the morning towards his coconut water stall, set up near Mankhurd Railway Station to start his daily business of selling coconut water. Adjacent to his stall, one Bhirgunath had also set up his vegetable stall at around 4 pm. It is his say that, close to 8 pm. in the night a mob came near their stalls chanting various slogans- "close the shops" etc. The Respondent No.2 and Bhirgunath ran out of their respective stalls. The

people in the mob had bamboo sticks and iron rods with them. The mob took down their stalls and destroyed it, leading to registration of the subject FIR.

3) The parties have now decided to amicably resolve the disputes. Respondent No.2 has thus filed Consent Terms dated 15th April 2024. Bhirgunath, the other victim mentioned in the FIR although not a party to the present proceedings has also recorded his statement dated 5th July 2024 to the Police that he has no grievance against the Petitioners and has no objection if the proceedings are quashed.

4) Advocate Harshad Sathe appears for the Petitioners and Advocate Atharv A. Gridaye represents the Respondent No.2. Mr. Sukanta Karmakar, learned APP represents the State.

5) Both the counsels contend that considering the decision of the parties to resolve their dispute by amicable settlement, the subject FIR be quashed. The Respondent No.2 has filed a Consent Affidavit dated 15th April 2024 to this effect duly affirmed before the Assistant Registrar, Appellate Side of this Court. The Respondent No.2 specifically states in paragraph numbers 4 and 5 of the Affidavit that, he has given his no objection to quash the criminal proceedings and has stated that, he has amicably settled all the disputes with the Petitioners with the intervention of local social workers and senior residents.

6) Advocate Sathe states on instructions from the Respondent No.2, who is present before the Court that he has consented for the quashing of the proceedings. He reiterates the contents of the Affidavit. We accept his statement.

7) In view thereof, we are inclined to quash criminal proceedings bearing CC No. 555 of 2018 pending before the Metropolitan Magistrate, 60th Court, Kurla, Mumbai arising out of FIR No. 306 of 2017 dated 26th October 2017 registered with Trombay Police Station, Mumbai for the offences punishable under Sections 143, 144, 147, 148, 149, 427 and 506 of the Indian Penal Code, 1860 ('IPC').

8) As we expressed our opinion for quashing of criminal proceedings bearing CC No. 555 of 2018 pending before the Metropolitan Magistrate, 60th Court, Kurla, Mumbai arising out of FIR No. 306 of 2017 dated 26th October 2017 registered with Trombay Police Station, Mumbai, learned Advocate for the Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.10,000/- each, totalling to Rs.1,30,000/- to the Armed Forces Battle Casualties Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of High Court of Bombay. The said statement is accepted as an undertaking to the Court.

9) In view thereof, we direct Petitioners to pay the cost as noted above to the Armed Forces Battle Casualties Welfare Fund within a period

of two weeks from the date of uploading of present Order on the official website of High Court of Bombay.

9.1) Details of the bank account for payment of cost are as under :-

Name of Fund :- Armed Forces Battle Casualties Welfare Fund.

Bank Name :- Canara Bank

Branch Name :- South Block, Defence Headquarters,
New Delhi-110011.

Account Number :- 90552010165915

IFSC Code :- CNRB0019055

Type of Acct :- Saving

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

11) In view of above and subject to payment of costs, Petition is allowed in terms of prayer clause (A).

12) It is made clear that, if the said cost is not paid within stipulated period by either of the Petitioners as mentioned above, Petition shall stand revived automatically and in that event, the trial Court shall conclude the trial of the said case expeditiously.

13) List the Petition on board on 23rd September 2024, under caption 'for reporting compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)