

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2635 OF 2024

1. Mr. Sureshchandra Agarwal,
Indian Inhabitant, Age: 79 years,
Address : 11, Shiv Sadan, 3rd Floor,
42, Marine Drive, 'C' Road, Churchgate,
Mumbai – 400 020.
2. Mr. Shailesh Agarwal,
Indian Inhabitant, Age: 56 years,
Address : Kshitij, Flat No. 01, 26th Floor,
Nepean Sea Road, Mumbai – 400 006.
3. Mr. D. D. Goyal,
Indian Inhabitant, Age: 77 years,
Room No. 902, 9th Floor, Kesar Exotica,
Sector-10, Kharghar, New Mumbai.
4. Mehboob Ali Haji Abdul Quershi,
Age: 66 years, Occ.: Contractor,
Address: 708, B2, C-Wing,
Quershi Building, V. R. Desai Road,
Goregaon (E), Mumbai – 400 053.Petitioners

Vs.

1. The State of Maharashtra
Through the Senior Inspector of Police,
L. T. Marg Police Station, Mumbai.
2. Khushnuma Behram,
Age: 65 years, Occ.: Business,
Bhatia Building/Sitaram Sadan,
Flat No. A-10, A Block, 4th Floor,
286, Princess Street, Mumbai-400 002.Respondents

Mr. Ramesh Dule-Patil a/w Lisa Das & Mr. Swaraj Patil i/b Jay & Co. for the
Petitioners.

Mr. V. N. Sagare, A.P.P. for the Respondent-State.

Ms. Diksha Shetty h/f AAK Legal for Respondent No. 2.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.
DATE : 27th JUNE 2024**

P.C.:-

1) Petitioners, Accused in Sessions Case No. 1352 of 2019 pending on the file of learned Additional Sessions Judge, 37th Court at Greater Mumbai arising out of C. R. No. 84 of 2018 dated 22nd March 2018 registered with L. T. Marg Police Station, Mumbai for the offence punishable under Sections 308, 336, 288 & 120-B read with 34 of the Indian Penal Code, 1860, have invoked jurisdiction of this Court under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, 1973 for quashing of the said case with the consent of Respondent No. 2, the informant.

2) Learned Advocate for the Petitioners submitted that, the Petitioner Nos. 1 & 3 being the landlords, Petitioner No. 2 being the legal-heir of deceased landlords and Respondent No. 2 being the Tenant had disputes over the renovation and repair work of the tenement wherein the Respondent No. 2 was a tenant. That, the parties therein have settled their disputes and differences amicably and Consent Minutes of the Order dated 21st March 2022 are filed in Writ Petition No. 947 of 2020 before the learned Single Judge of this Court. In paragraph no. 18 thereof, the Respondent No. 2 has agreed to cooperate with the Petitioners for quashing

of the crime in question. He therefore prayed that the said case may be quashed with the consent of Respondent No. 2.

3) Learned Advocate for Respondent No. 2 tendered across the bar her Affidavit dated 20th January 2024 duly affirmed before a Notary Public. In the said Affidavit the Respondent No. 2 has admitted the fact of amicable settlement and filing of Consent Minutes of the Order in Writ Petition No. 947 of 2020. In paragraph no. 4 thereof, she has given her consent for allowing the Petition filed by the Petitioners.

3.1) Respondent No. 2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 20th January 2024 and her 'no objection' for quashing of the crime in question.

4) In view thereof, we are inclined to quash the Sessions Case No. 1352 of 2019 pending on the file of learned Additional Sessions Judge, 37th Court at Greater Bombay arising out of C. R. No. 84 of 2018 dated 22nd March 2018 registered with L. T. Marg Police Station, Mumbai for the offence punishable under Sections 308, 336, 288 & 120-B read with 34 of the Indian Penal Code, 1860.

5) As we expressed our opinion for quashing of said Sessions Case No. 1352 of 2019 pending on the file of learned Additional Sessions Judge, 37th Court at Greater Bombay, learned Advocate for the Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs. 50,000/- (Rupees Fifty Thousand Only) to the Advocates' Association of Western

India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the present Order on the official website of the Bombay High Court. 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/- (Rupees Fifty Thousand Only) to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

6.1) The 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 of Rs. 50,000/- (Rupees Fifty Thousand Only) 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 Sessions Court will proceed with the Sessions Case No. 1352 of 2019 expeditiously.

9) List the Petition on board on 31st July 2024, under caption 'For Reporting Compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

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KRISHNA
KOTAWADEKAR

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