



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3725 OF 2024

1. Sandesh Keluskar,
Age: 44 years, Occupation: Service,
Residing at-Sarvodaya Nagar,
Anandibai Bhavan Chawl, Room No.1,
Sanmansingh Road, Bhandup West,
Mumbai.

2. Dipesh Limbani,
Age: 51 years, Occupation: Service,
Residing at-2/B, Mahavir Apartment,
Pantnagar, Ghatkopar (West),
Mumbai – 400 075.

.....Petitioners

Vs.

1. The State of Maharashtra,
(At the instance of The Sr. P.I.,
Chembur Police Station, Mumbai).

2. Tejas Deepak Parekh
Age: 46 years, Occupation: Business,
Residential address: 302, Havare Parikh,
3rd Floor, Union Park, Chembur – 400 071.Respondents

Mr. Mithilesh Mishra (Through VC), i/b. Ms. Sharvari Joshi, for the
Petitioners.

Mr. S. A. Karmakar, APP for Respondent No.1-State.

Mr. Vikram Sutaria, i/b. Mr. Hrituraj Singh Rajput, for Respondent No.2.

CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.

DATE : 13th SEPTEMBER, 2024.

P.C.:

1) Petitioners seek to quash criminal proceeding bearing
C.C.No.PW/246/2011 pending before the Chief Metropolitan Magistrate,

11th Court, Kurla, Mumbai arising out of F.I.R.No.493 of 2010 dated 23rd October 2010 registered with the Chembur Police Station, Mumbai for offences punishable under Sections 454 and 380 read with 34 of the Indian Penal Code, 1860 ('IPC').

2) The dispute between the parties arose on account of allegation that they broke open the lock of the meter room and removed the electric meter in the name of Respondent No.2 without his consent and knowledge with the intention of getting a plot of land vacated for the purpose of development. This led to filing of the impugned F.I.R. culminating in the criminal proceeding.

3) Mr. Mithilesh Mishra, learned counsel appears for the Petitioners and Mr. Vikram Sutaria, learned counsel appears for the Respondent No.2. Mr. Karmakar, learned APP represents the State.

4) Learned counsels of both the Petitioners as well as the Respondent No.2 state that, considering the decision of the parties to resolve their dispute by amicable settlement, Respondent No.2 has filed his consent Affidavit dated 19th August 2024 duly affirmed before a Notary Public in both the Petitions. In paragraph No.5 thereof, he has given his no objection to quash and set aside the present criminal proceedings.

5) Respondent No.2 is not present in the Court. However, on instruction his counsel reiterates the statements made by him in the Affidavit. We accept the statements.

6) Considering the facts in the present case and the consent Affidavit of Respondent No.2, we are inclined to quash criminal proceeding bearing C.C.No.PW/246/2011 pending before the Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai arising out of F.I.R.No.493 of 2010 dated 23rd October 2010 registered with the Chembur Police Station, Mumbai.

7) As we expressed our opinion for quashing the said criminal proceedings, Mr. Mishra, learned counsel appearing for the Petitioners on instructions submits that, the Petitioners will pay Rs.25,000/- (Rupees Twenty Five Thousand Only) 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 Bombay High Court. The said statement is accepted as an undertaking given to this Court.

8) In view thereof, we direct the Petitioners to pay the cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) jointly or severally 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.

8.1) The details of the Bank Account for payment of cost are as under :-

Bank Name :- Canara Bank

Branch Name :- South Block, Defence Headquarters,

New Delhi – 110 011

Account Name :- Armed Forces Battle Casualties Welfare Fund

Account Number :- 90552010165915

IFSC Code :- CNRB0019055

8.2) Petitioners to deposit the said cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

9) In view of the above and subject to payment of cost by the Petitioners, Petition is allowed in terms of prayer clause (b).

10) It is made clear that, if the cost is not paid by either of the parties within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the trial Court shall proceed with the criminal proceeding expeditiously.

11) List the Petition on board on 14th October 2024, under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)