

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1198 OF 2024

Rakesh Inderajit Sharma,
Age : 57 years, Occu.-Business,
R/o. 4A Swapnlok,
47 Nepean Sea Road,
Mumbai – 400 026

... Petitioner/
(Org. Accused No.2)

V/s.

1. The State of Maharashtra
(At the instance of Sr. Inspector,
Dadar Police Station, Mumbai.
2. Mr. Rajendra Chunilal Mehta,
Age - Unknown, Occu. - Business,
R/o. 68, Hemprabha Building,
Marine Drive, Mumbai – 400 020.

... Respondents/
(Org. Complainant)

Mr. Saumitra Salunke a/w Ms. Swapnali Chavan i/b Mr. Pradeep
Yadav for the Petitioner.

Mr. Mayur Sonavane, A. P. P., for the Respondent-State.

Mr. Kunal Ambulkar, for the Respondent No.2.

PSI Deepak Gaikwad, Dadar Police Station.

**CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.**

DATE : 1ST OCTOBER, 2025.

Order (Sandesh D. Patil, J.) :-

1. By this petition, the petitioner seeks quashing of the FIR / chargesheet and consequently Case No. 02/PW/2001 arising from **C.R. No. 91 of 1998** which is pending before the learned Metropolitan Magistrate, 5th Court, Bhoiwada, Dadar against the petitioner for the offences punishable under Section 447, 379, 427 r/w 34 of the Indian Penal Code (IPC).

2. The Respondent No. 2 (Original complainant) lodged the aforesaid FIR against the petitioner alleging therein, the aforesaid offences. The complainant and his father Late Shri Chunilal Mehta had formed a Trust, by the name, Chunilal Mehta Charitable Trust in the year 1973; and that the Trust owned an immovable property which is the genesis of the complaint. It is alleged that on 15.11.1997 at about 11.30 p.m., the complainant's friend-Subhash telephonically informed the complainant, that the

wall in the Trust property, in respect of which the Court had granted a stay on demolition, was being demolished by some 10 to 15 persons. The complainant therefore, lodged an FIR with the Dadar Police Station, Mumbai. The work was stopped thereafter. It is further alleged that again on 16.11.1997, work of demolition of the wall re-started. On these facts, the complaint lodged a complaint with the Bhoiwada, Dadar Police Station, Mumbai.

3. The petitioner states that the parties have amicably settled the dispute and have decided to put an end to all the litigations between the parties inter-se. It appears that in a suit bearing No. R.A.E. & R Suit No. 821/1319 of 2012 which was filed between the parties, consent terms were filed in the said suit. The petitioner states that the suit was accordingly disposed of by the Small Causes Court, Mumbai, in view of the content terms.

4. Pursuant to the notice issued to the respondent in the present matter, the respondent No.2/complainant appeared and filed his affidavit thereby supporting the contentions of the

Petitioner. The respondent no.2 in his affidavit has stated that the consent terms executed between the parties on 11.12.2025 before the Small Causes Court, Mumbai and that all the disputes have been settled between the parties. The Respondent No.2 gave his express consent for quashing the FIR/ chargesheet and consequently the proceeding pending before the learned Metropolitan Magistrate Court, Bhoiwada, Dadar.

5. We have heard the learned Counsel for the parties.

“6. ‘Learned counsel for the petitioner states that there were five accused, and that out of 5 accused, except Accused No.2- Rakesh Sharma (Petitioner herein) and Accused No.3-Mahendra Mehta, 3 accused i.e. Accused No.1- Inderajit Sharma, Accused No.4 – Mohanlal Mehta and Accused No.5 – Dinesh Savla have expired and as such the prosecution against Accused Nos.1, 4 and 5 stands abated.

7. We have specifically put a question to the respondent No.2, who is present in the Court, as to whether he has settled the dispute and whether he is agreeable for quashing of the FIR/chargesheet/proceeding. The Respondent No.2 reiterates what is stated by him in the affidavit, i.e. he has no objection to the quashing of the FIR/charge-sheet/proceeding, against the accused, including the petitioner and the non-applicant i.e. accused No.3 – Mahendra Chunilal Mehta, since the parties had amicably settled their dispute.

8. Perused the chargesheet. Upon perusal of the same, we are of the opinion that the genesis of the dispute is an immovable property. Prima facie, we are of the opinion that the dispute is a civil dispute. The Apex Court has held that the High Court can quash the proceeding, if it comes to the conclusion that because of the compromise between the offender and the victim, the possibility of conviction becomes remote and bleak. Our view is fortified by the judgment of the Apex Court in ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303.***

9. We feel that there is no point in keeping the matter pending before the court. There is a bleak possibility of conviction since the matter has been amicably settled between the parties. We therefore, proceed to pass the following order.

I. The petition is allowed in terms of prayer clause (ii) which reads as under :

“ii) This Hon'ble Court may be pleased to allow the above petition and or by way of writ of mandamus or any other appropriate writ of like nature and this Hon'ble Court may be pleased to quash the Chargesheet vide Case No. 2/PW/2001 arising from C.R No. 91 of 1998 pending before the Ld. Metropolitan Magistrate, 5th Court, Bhoiwada, Dadar, Mumbai against the qua Petitioner for offence under section 447, 379, 427 r/w 34 of Indian Penal Code.”

II. The petitioner and respondent to pay an amount of Rs. 25,000/- each to the Mumbai Police Welfare Fund, bearing Account No. 465010100008693, IFSC

No. UTIB0000465 within three weeks
from today.

III. The petitioner as well as
respondent no.2 to also pay an amount of
Rs. 25,000/- each, to the Tata Cancer
Hospital, Mumbai within a period of three
weeks from today.

10. Petition stands disposed of on the aforesaid terms.

11. Place the matter for compliance on **13th November, 2025.**

(SANDESH D. PATIL, J.)

(REVATI MOHITE DERE, J.)

VDMokal