Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1757 OF 2017

Prikar Properties Private Limited and Ors. .. Petitioners

Versus

State of Maharashtra and Ors. .. Respondents

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- Mr. Anupam Surve a/w. Mr. Vinayak S. Vengurlekar, Advocates i/by Ms. Nair Venurlekar & Co. for Petitioners.
- Ms. Sangeeta E. Phad, APP for Respondent – State.
- Mr. Hemant J. Ashar and Ms. Neeta H. Ashar, Advocates for Respondent Nos.2 and 3.
- Mr. Karma Vivan, Advocate for Respondent No.6.
- Mr. Vimal J. Soni, Respondent No.6 present.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 01, 2026.

P.C.:

1. Heard Mr. Surve, learned Advocate for Petitioners; Ms. Phad, learned APP for Respondent – State and Mr. Ashar, learned Advocate for Respondent Nos.2 and 3.

2. The parties are before the Court seeking quashing of the criminal proceedings in view of the parties having amicably settled the dispute finally. Consent Terms are duly signed by Petitioner Nos.1 to 3; Respondent No.6 and their respective Advocates.

3. Mr. Surve, learned Advocate persuades me to take on record Consent Terms and Mediator's Report both dated 01.10. 2026. Perusal

of the said *prima facie* shows that the dispute between the parties emanated from a civil issue, namely an MOU which ultimately led to filing of a Civil Suit and the present criminal proceedings. Be that as it may, since the parties have now reconciled the dispute and entered into Consent Terms, request is made by both the parties to quash the criminal proceedings so that the parties can continue to lead their life free of the burden of the criminal proceedings and carry on with their business prospects.

4. Adhering to the request made by the parties, I am inclined to consider the Petition and allow consent quashing. Parties are present before me. I have interacted with the parties with the able assistance of their respective Advocates. At the request made by the learned Advocates, I wish to put in a word for the Mediator in the present matter who has taken absolute efforts to reconcile the dispute considering that the present Petition had remained pending on the record of the Court for the past more than 9 years.

5. Section 482 of the Criminal Procedure Code, 1973 conferred inherent powers on High Courts to pass such orders as are justified to give effect to any order in the Court, prevent abuse of process of any Court or secure the ends of justice. In the BNSS this provision stands incorporated with Section 528 which substantially reproduces the language and intent of Section 482 of the CRPC, 1973 High Courts

invoke this provision to step in where cases have been instituted with *malafide* motives or to harass the accused person thereby avoiding procedural harassment. It empowers Court to dismiss FIRs or criminal proceedings if there is no *prima facie* case or evidence against the accused person/s or if orders are made in violation of the principles of natural justice. The exercise of such powers under Section 482 of CRPC and now Section 528 of BNSS remains discretionary and varies from case to case.

6. In ***State of Harayana vs Bhajan Lal***[1] the Supreme Court laid down model categories and guidelines in paragraph No. 102 of the said judgment in which the FIRs can be quashed. The Supreme Court has further asserted that power under Section 482 is an acknowledgment of "powers inherent" and not the source of powers additional. It has held that even non compoundable offences can be quashed where necessary. It has held that High Courts have to decide whether the prosecution of an offence would further or be against the interest of justice. It is also held that grievous offences such as murder, rape, and dacoity cannot ordinarily be quashed even after settlement because they involve societal implication.

7. In the above context, when parties settle their private dispute or the *lis* between them is purely civil and commercial or matrimonial and the offence is not heinous or does not impact the society at large,

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the Court can consider such request. In such a case awarding costs for putting the criminal law into motion on the act of the accused persons and thereafter both parties seeking quashing of proceedings by consent, in my opinion, can be considered by Court which can impose costs on the parties, especially so in matters coming before the Court by "consent quashing".

8. For above levy of costs the legal principle rests on the logic that criminal law cannot be used as a bargaining chip or a tool for private settlements after draining the State and judicial resources. In simple words, Courts cannot be used as a recovery mechanism to settle scores and/or bring the parties into subjugation. I am of the firm opinion that imposition of costs in consent quashing matters is required to be levied for three main reasons viz., wastage of public resources, consumption of valuable judicial time and for deterrence against vexatious litigation. This is because after criminal machinery is set into motion, the Police Department is forced to take cognizance, conduct investigations, attend courts, deploy personnel, collect evidence and draft chargesheets, all using public funds/ public exchequer. Equally substantial judicial time of the Trial Courts and Sessions Courts is wasted for handling a case, presentation of a case, issuance of summons, scheduling of trial dates, appointment of prosecutors and their fees, etc. and ultimately if consent quashing is allowed such judicial time stands completely wasted, which could have

otherwise been used for genuine Trial Court matters/ litigation in one way such matters result in clogging the legal system and lead to humongous pendency which becomes difficult to tackle.

9. Another aspect to consider for imposing costs is that it curbs the growing trend of filing strategically exaggerated criminal complaints (especially matrimonial or commercial disputes) simply to force financial and legal settlements. In a given case made out on merits of the matter, even the Complainant can be put to costs while considering a quashing Petition purely on merits depending upon the facts of each case before Court. In some strong circumstances, even the State machinery can be put to costs if a purely civil dispute between parties strongly emanating from the facts on record is registered as criminal case and given the flavor of criminality. This Court is also equally conscious about not imposing costs blindly or mechanically if a particular party is not found to be remiss or at explicit fault for abusing the law, as also conscious about heinous offences impacting the society at large while considering consent quashing.

10. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Petitioners for their actions resulting in the Complainant invoking criminal proceedings and now both the parties seeking quashing by consent, Petitioners should pay costs. Hence, Petitioners are directed to pay costs of Rs.25,000/- towards the

Corpus of **A.K. Munshi Yojana** a trust which runs medical centres, vocational training centres and which also runs a Special School called **J.T. Sheth Mandbuddhi Vikas Kendra**, imparting education and training to the needs of 150 special children in the field of Education (Classes for 6 to 18 years), early intervention (upto 6 years) and vocational training (18 years above) having its school address and building at A.K. Munshi Yojana Chowk, 3rd Panjarapole Lane, C.P. Tank, Mumbai – 400 004 [Contact Nos. 22425513 / 22423654] registered under the Society Registration Act, XXI of 1980 under No. : 387/81 GBBSD and the Public Trust Act, XXIX of 1950 under No. F-6809. RCI Reg. No. 0163 within a period of two weeks from the date of uploading of this order. All Petitioners are present in Court and through their learned Advocates agree to pay the aforesaid costs amount as directed.

11. As stated in the Consent Terms, Demand Draft of Rs.2 crores has been handed over to Respondent No.6. The parties are all present before me and submit that they shall all abide by the terms and conditions in the Consent Terms as per their undertaking given to this Court.

12. Parties shall be at liberty to approach the Civil Court on the basis of the Consent Terms and take appropriate orders for disposal of the Civil Suit in accordance with law.

13. In view of the above matter, the present Petition deserves to be allowed subject to payment of costs as directed herein above. It is so allowed in terms of prayer clauses ‘a’ and ‘a1’.

14. Parties have jointly informed the Court that they will take immediate steps to dispose of the Civil Suit and one pending Criminal Writ Petition in this Court for the same cause of action, in view of the present order and the Consent Terms.

15. The Vakalatnama on behalf of Respondent No.6 of Mr. Karma is accepted by the Registry/Department and placed on the record of the case.

16. In view of the above, Writ Petition is disposed.

17. List the present Writ Petition on Board on **15th October 2026**.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE
Date: 2026.10.01 18:42:07 +0530