

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5170 OF 2022

Afsar Ali S/o. Abdul Aziz & Ors.

.. Petitioners

Vs.

State of Maharashtra & Anr.

.. Respondents

Mr. S. Qureshi for the Petitioners.

Ms. Mahalaxmi Ganpathy, APP for the Respondent No.1-State.

Mr. Mohammed Ahmed, for the Respondent No. 2

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 31st OCTOBER, 2023.

P. C.:-

1) Petitioners, accused in C.R. No. 734 of 2022 registered with Sakinaka Police Station, Mumbai under Sections 324, 323, 504, 506 (2) 143, 147, 148 of the Indian Penal Code have invoked jurisdiction of this Court under Article 226 of the Constitution of India read with 482 of the Code of Criminal Procedure, for quashing of the said crime with consent of Respondent No. 2, the victim.

Mr. Qureshi, learned Advocate for Petitioners on instructions submitted that, till date the Police have not filed chargesheet. The said statement is accepted.

2) Learned Advocate for the Petitioners submitted that, Petitioners and Respondent No. 2 have amicably settled their disputes and differences and have executed Consent Terms dated 26th July, 2022. That Respondent No. 2 has also filed an Affidavit in support of the Petition giving his consent

for quashing of the crime in question. He therefore prayed that, the said crime may be quashed.

3) Learned Advocate for Respondent No. 2, on instructions admitted execution of Consent Terms dated 26th July, 2022 and affirmation of Affidavit dated 26th July, 2022. In the said Affidavit the Respondent No. 2 has admitted execution of Consent Terms and has given his consent for quashing of the present crime.

3.1) Learned Advocate for Respondent No. 2, on instructions reiterates the contents of the Consent Terms dated 26th July, 2022, Affidavit dated 26th July, 2022 and the 'no objection' of the Respondent No. 2 for quashing of the crime in question.

4) In view thereof, we are inclined to quash C.R. No. 734 of 2022 registered with Sakinaka Police Station, Mumbai.

4.1) As we expressed our opinion for quashing of said C.R. No. 734 of 2022 registered with Sakinaka Police Station, Mumbai, learned Advocate for the Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.5,000/- each totalling to Rs.25,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the present Order. The said statement is accepted as an undertaking given to this Court.

4.2) We direct the Petitioners to pay the cost of Rs. Rs.5,000/- each totalling to Rs.25,000/- to 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.

4.3) 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.

4.4) The Petitioners to deposit the said cost of Rs.25,000/- within stipulated period as noted above and submit the receipts of the same in the Registry of this Court.

5) In view of the above and subject to payment of cost, Petition is allowed in terms of prayer clause (a).

6) 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 Investigating Agency will proceed with the investigation of the said case expeditiously.

7) All the concerned to act on the basis of an authenticated of this Order.

(SHYAM C. CHANDAK J.)

(A. S. GADKARI, J.)