

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 205 OF 2018**

1. Richard Queiroz,
s/o E.D. Queiroz,
31 years,
r/o Flat No.E-163,
Ella – Baiguinim,
Old Goa, Tiswadi Goa.

2. Seby T. A. Queiroz,
s/o E. D. Queiroz,
44 years,
r/o House No.126,
Coelho Wado, Penha
De France, Bardez,
Goa.

.... Petitioners

V e r s u s

1. State of Goa,
Through the Public
Prosecutor,
High Court,
Panaji-Goa.
2. The Police Inspector,
Old Goa Police Station,
Dist – North Goa, Goa.
3. Makthum Patel,
Major in age, Business
R/o Flat no.F-4, Tarang
Building, Alto Dabolim,
Near Wales House,
Vasco-Da-Gma, Goa.

.... Respondents

Mr. Vibhav Rajiv Amonkar, Advocate for the Petitioners.

Mr. S. R. Rivankar, Advocate for Respondent nos. 1 & 2.

Mr. S. P. Munj, Advocate for the Respondent no.3.

**Coram:- M. S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.
Date:- 16th January 2019.**

Oral Judgment (Per M. S. Sonak, J):

Heard Mr. Amonkar, the learned counsel for the petitioners, Mr. Rivankar, the learned Public Prosecutor for the respondent nos.1 and 2 and Mr. Munj, the learned counsel for the respondent no.3.

2. Rule. Rule returnable forthwith. Heard finally with the consent of the learned counsel for the parties. Mr. Rivankar, the learned Public Prosecutor waives notice on behalf of the Respondent nos.1 and 2. Mr. Munj, the learned counsel waives notice on behalf of the respondent no.3.

3. The petitioners seek quashing of the charge sheet no.58/2015 dated 13/6/2015 in which, the petitioners, along with some others persons have been charged for the offences under sections 143, 427, 447 r/w 149 of I.P.C. The complainant, respondent no.3 in the present case has filed an affidavit. In

the affidavit, he stated that he has no objection to quashing of the charge sheet as against the petitioners and even the other accused persons. He has stated that the complaint was filed on account of misunderstanding between the petitioners, other accused persons and himself. He has stated that the dispute has now been amicably settled and there is no surviving grievance.

4. The Affidavit filed by the respondent no.3 also states that on 21/9/2013 itself, he had addressed a letter to the respondent no.2 to permit withdrawal of the complaint on account of the amicable settlement. However, since, some of the offences were not compoundable, no such permission was granted for withdrawal/compounding.

5. Paragraphs 4, 5 and 6 of the Affidavit-in-reply filed by the respondent no.3 read thus:

4. I say that I had on 21st September, 2013 addressed a letter to Respondent no.2 to permit me to withdraw the said Complaint on account of the settlement as mentioned herein above. However, as some of the offences alleged in the said FIR were non compoundable, I was not permitted to withdraw the said complaint.

5. I say that I am given to understand that the Petitioners have filed the present exception in order to invoke the inherent powers of this Hon'ble Court u/s 482 of Cr.P.C praying for quashing of the said Charge Sheet. I record my no-objection,

by way of the present Affidavit if the said petition is allowed in its totality and the charge sheet and the criminal proceedings are quashed as against the petitioners as well as other persons accused in the present criminal case.

6. I say that quashing the Chargesheet and criminal proceedings by allowing the present petition is on the interest of the petitioners. and would help to maintain cordial relationship between the petitioners and myself.

6. In the present case, the offences alleged against the petitioners cannot be held to be such serious offences as to deny the request for quashing of the charge sheet even after the parties have amicably resolved the disputes amongst themselves. The principles in (i) **Gian Singh Vs. State of Punjab an anr. (2012) 10 SCC 303**, (ii) **Narinder Singh and others Vs. State of Punjab and another (2014) 6 SCC 466** and (iii) **Parbatbhai Aahir and others Vs. State of Gujarat and anr. (2017) 9 SCC 641**, support the contentions today raised by the petitioners and on the basis of the same, there can be no difficulty in quashing the chargesheet in so far as the petitioners are concerned. The learned Public Prosecutor, on the basis of the fact situation in the present case, also states that there can be no difficulty if prayer made by the petitioners is granted.

7. Though we are inclined to grant the reliefs prayed for by the present

petitioner in the present petition, the petitioners, will have to be directed to pay some costs. This is because on account of the respondent no.3 and the petitioners, the prosecution was set into motion and valuable judicial time as well as efforts had to be expended. In fact, in such an situation, both the petitioners, as well as the respondent no.3 are required to be pay the costs. The petitioner states that the petitioners will bear the costs. The petitioners offered to pay the cost of Rs.5000/- (Rupees five thousand only) each to the Goa State legal Services Authority.

8. Accordingly, for all the aforesaid reasons, Rule is made absolute in terms of prayer clause (a), which reads thus:

a) Grant a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction calling for the records in Criminal Case No. 234/ 2015 pending before Judicial Magistrate First Class at Panaji and the charge sheet No.58/2013 registered with Respondent no.2 Police Station, and after perusing the same, to quash the said charge sheet no.58/2013 dated 13/06/2015 and the consequent criminal proceedings as against the petitioners.

9. The petitioners, as volunteered by them, are directed to pay costs of Rs.5000/- each to the Goa State Legal Services Authority within a period of two weeks from today.

10. All concerned to act on the basis of the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

M. S. SONAK, J.

ap/-