

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 738 OF 2015

Dipanjali Rajesh Chugh ... Applicant
Vs.
The State of Maharashtra & another ... Respondents.

WITH
CRIMINAL APPLICATION NO. 728 OF 2015

Rajesh Bhasin ... Applicant
Vs.
The State of Maharashtra & another ... Respondents

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Mr. Mahesh Pandey i/b. Mr. Kamlesh Tiwari for the Applicants in both applications.

Dr. F. R. Shaikh, APP for Respondent-State.

Ms. Ameeta Kutti Krishnan for Respondent No.2 in both applications.

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CORAM : A. S. OKA & A. A. SAYED, JJ.

DATE : 26 October 2016.

P.C. :

1. Rule.
2. The Advocate for the 2nd respondent in both the Applications waives service. Learned APP waives service for the 1st respondent. Forthwith taken up for final disposal.

3. The prayer in both the applications under section 482 of the Criminal Procedure Code, 1973 (for short “Cr.P.C.”) is for quashing the same First Information Report being C.R.No.110 of 2015 registered with Samatanagar Police Station, Mumbai at the instance of the 2nd respondent. As can be seen from the statement of the 2nd respondent on the basis of which the impugned First Information Report was registered, the real dispute was about the sale transaction in respect of a flat. The allegation of 2nd respondent was that she paid a substantial amount of Rs.31,50,000/- to the applicants in these two applications and that she was cheated by the applicants by not selling the flat to her.

4. With the intervention of the learned counsel appearing for the parties, the entire controversy has been resolved by an amicable settlement. The common consent terms in both the applications have been tendered on record. The consent terms have been signed by the 2nd respondent, her advocate, the applicant in Criminal Application No. 728 of 2015 and the Advocate for the applicant in both the applications. The consent terms are taken on record and marked “X-1” for identification. The consent terms show that entire dispute in respect of the

transaction of sale of the flat has been resolved between the parties. Now an agreement for sale in respect of the said flat in question executed by the applicant in Criminal Application No.728 of 2015 in favour of 2nd respondent and two others has been duly registered. As far as the applicants are concerned, now they are required to hand over a copy of the allotment letter in respect of the said flat which was submitted for the purposes of adjudication of the document. Learned counsel appearing for the applicants states that a copy of the allotment letter will be handed over to the 2nd respondent in two days. We accept the statement.

5. The terms and conditions regarding the payment of balance consideration by the purchasers as well as delivery of possession of the said flat by the applicant in Criminal Application No. 728 of 2015 have been incorporated in the consent terms.

6. The 2nd respondent has filed separate affidavits in both the applications recording that there is a settlement of dispute. In the affidavit filed in Criminal Application no. 728 of 2015, she has set out the details of the settlement as incorporated in the consent terms.

7. Essentially, the dispute subject matter of the impugned First information Report was in respect of the sale transaction of the flat. As evidenced by the affidavits and consent terms, the entire dispute has been settled to the satisfaction of the parties. Therefore, in the light of the law laid down by the Apex Court in the case of Gian Singh versus State of Punjab and another¹, this is a fit case to exercise power of quashing the First Information Report.

8. Accordingly, we dispose of these applications by passing the following order :

ORDER

I. Rule issued in both these applications is made absolute in terms of prayer clause (b) which reads thus:

“(b) That the Hon'ble Court be pleased to issue a Writ or Direction or Order in the nature of Mandamus Under Article 226 of the Constitution of India 1950 quashing / setting aside the C.R. No. 110/15 registered with the Samatanagar Police Station, Kandivli, Mumbai lodged by the Respondent No.2.”

1 (2012) 10 SCC 303

- II. In view of this order, the bank accounts of the applicant in Criminal Application No.728 of 2015 (Rajesh Bhasin) bearing No.214701000010917 with Indian Overseas Bank, Lokhandwala Branch Kandivli (East) and No.017410110002528 with the Bank of India, Lokhandwala Branch Kandivli (East) shall be de-freezed. Necessary letters shall be issued by the officer in charge of the Samatanagar Police Station to the concerned banks on production of an authenticated copy of the operative part of this judgment and order.
- III. All concerned to act upon an authenticated copy of this order.

(A. A. SAYED, J.)

(A. S. OKA, J.)