

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4053 OF 2014

Housing Development & Infrastructure
Ltd and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Satish Borulkar i/b S. S. Deshmukh for the Petitioners.

Mr. J. P. Yagnik, learned APP for the State.

Smt. Shabnam S. Latiwala, Respondent No. 2 in-person.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **February 16, 2016.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State as well as Smt. Latiwala, Respondent No.2 in-person.

2. By this writ petition filed under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking to quash FIR registered against them at V. B. Nagar Police Station, Mumbai [being C.R.No. 61 of 2014] at the instance of Respondent No.2, wherein the allegations are with regard to the offence punishable under section 420 read with 34 of the Indian Penal Code, 1860 and sections 3, 7 and 13 of the Maharashtra Ownership of Flats Act, 1963.

3. The learned Counsel appearing for the Petitioner as well

as Smt. Latliwala Respondent No.2 submitted that during the pendency of investigation into above FIR, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, instant petition is filed for quashing above FIR with the consent of Respondent No. 2.

4. Respondent No.2 has filed an affidavit dated 11th February 2016 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in the FIR filed by her with Vinoba Bhave Nagar Police Station. She has solemnly affirmed that she has no objection for quashing the FIR in question against the Petitioners.

5. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the FIR in question lodged at her instance against the Petitioners for the offence punishable under section 420 read with 34 of the Indian Penal Code, 1860 and sections 3, 7 and 13 of the Maharashtra Ownership of Flats Act, 1963.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it

transpires that the allegations are totally personal in nature. It is with regard to commercial transactions. There is no element of public law involved in the crime. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the FIR alive pending except ultimately burdening the Criminal Courts which are already overburdened.

7. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the FIR in question. Hence, petition is made absolute in terms of prayer clause (a). As the police machinery and Court machinery was put into action by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle Petitioners with the cost of Rs.10,000/- each, which shall be paid to **“Shanti Avedna Sadan”** an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and

produce receipt within stipulated time, petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station / Magistrate that subject FIR / proceedings shall not be treated to have been quashed and that police / Magistrate shall proceed against the Petitioners in accordance with law.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]