

CRIMINAL WRIT PETITION NO.4049 OF 2015

Mrs.Nikita Abhishek Jain and another	Petitioners
versus	
The State of Maharashtra & another	Respondents

Mr.Rahul Watulkar for Petitioners.
Mrs.S.V.Sonawane, APP, for State.
Mr.Kartik Garg for Respondent no.2.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 9th August 2016

PC :

1. On the complaint made by Ajay Kokate on 6 August 2016, a first information report ('FIR') came to be registered vide CR No.272 of 2015 under Sections 420, 465, 466, 467, 468, 471, 506(2) read with Section 34 of Indian Penal Code. The Police is investigating the case.
2. The Petitioners have prayed for quashing the FIR No.272 of 2015. The complainant Ajay Kokate filed an affidavit wherein he states as under :

"3. I further say that the accused had paid an amount of Rs.8,00,000/- (Rs.Eight lakhs only) on 8.9.2015 at Lalbaug, Rs.5,00,000/- (Rs.Five lakh only) by way of demand draft drawn on the Ratnakar Bank Ltd., Kalbadevi Branch, Mumbai, Demand Draft No.424728,

dated 8.9.2015 and Rs.3,00,000/- (Rs.Three lakhs only) by way of cash.

4. I say that both the parties have amicably settled the matter outside the Court by and that in view of the settlement entered into between both the parties, therefore, I am not desirous of proceeding with the present complaint and prosecute the Petitioners."

3. Learned counsel for Petitioners and Respondent no.2 state that an amount of Rs.8.00 lakh has been returned to the complainant (Respondent no.2) and the matter has been settled. Therefore, impugned FIR No.272 of 2015 needs to be quashed. Learned APP submits that investigation is going on. Police have recorded statement of Ankit Jain. The flat is owned by them. Lata is mother-in-law of Vinita and Nikita. Ankit Jain is husband of Vinita Jain. Learned APP further states that a forged general power attorney was made and a deed was also prepared where forged signatures of Vinita were made by entering into a transaction of sale of the flat. Photographs were affixed and forged signatures were made. Learned APP submits that Police have received information of similar transaction by Vinita Jain.

4. We have perused the record of investigation, original deed of general power of attorney and deed of sale. In the facts, we find that the allegations made are of serious nature where agreements are made by forging signature and pasting of photographs. Police is investigating the matter in respect of impersonation made in the sale transaction. It is immaterial as to whether Nikita Jain is related to the owner Ankit Jain. It would be also immaterial whether Ankit would, during the course of investigation, give no objection for

getting the prosecution quashed. Considering the serious nature of allegations made, which the investigating officer is examining, we are not inclined to exercise our jurisdiction either under Article 226 of the Constitution of India or under Section 482 of Code of Criminal Procedure.

5. We direct the investigating officer to complete the investigation and file final report on its own merits.

6. Writ Petition stands rejected.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST