

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1268 OF 2016

Shri Shekhar P. Puranik & Others. ... Applicants.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. S. Sathyanarayanan, Advocate for the Applicants.

Mr. Rupesh Zade a/w. Shailesh Chavan, Advocate for the Respondent No.2.

Shri Patel S. Y., A.S.I. to Tardeo Police Station is present.

**CORAM : V. M. KANADE AND
Ms. NUTAN D. SARDESSAI, JJ.**

DATE : 16th NOVEMBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of the Applicants and the learned counsel appearing on behalf of the Respondent No.2.

2 This application is filed by the Applicants for quashing the criminal complaint filed by Respondent No. 2 for the offences punishable under sections 191, 403, 406, 408, 416, 419, 420, 467, 468, 471 of the IPC with the Tardeo Police Station, Dist. Mumbai registered vide FIR No. 66 of 2013.

3 The gist of the complaint is that the developer concerned had promised to give a flat to the complainant - Respondent No.2 after reconstruction of the building. However, after the building was reconstructed, the flat was not handed over to Respondent No. 2 and when she made enquiries, she learnt that the applicants had transferred her flat to Respondent No. 6.

4 According to the applicants, Respondent No. 6 had importunated the Respondent No. 2 and by forging her signature had claimed the flat which was made to be given to Respondent No. 2.

5 The parties have now amicably settled the dispute. They have entered into memorandum of understanding dated 14th October, 2016. The applicants have in full and final settlement of the claim of Respondent No.2 have paid to her Rs.16,00,000/- (Rs.Sixteen lakhs) by way of pay order dated 13.10.2016.

6 We are satisfied that the dispute between the parties is a personal dispute and as such there is no impediment in quashing the said complaint of the Respondent No.2 by consent of the parties in view of the ratio of the judgment as laid down in the case of **Gian Singh vs. State of**

Punjab & Anr., reported in (2012) 10 Supreme Court Cases 303.

7 We have interviewed the Respondent No. 2. She has stated that there is no objection if the complaint is quashed and she has informed us that she has received Rs. 16 lakhs by a demand draft. She has stated that she does not wish that she and her husband had to go to the court every month and there was no guarantee that the matter would be disposed of within a reasonable period of time. She further stated that more over if this amount is deposited by her in the Bank, in five years the same amount would be doubled. She also stated that she is now residing in the flat at Dadar.

8 Taking into consideration all the above aspects, we are of the view that the ratio of the judgment in Gian Singh, cited supra, applies to the facts of the present case.

9 However, we are surprised that though two years have passed, the investigating officer has not filed chargesheet in the matter till today. We direct the Commissioner of Police Mumbai to evolve a mechanism to ensure that investigation of such offences, particularly pertaining to the complaints against the builders and developers is complete within 90 days, as stipulated by the Cr. P.C. and further the Commissioner should call for explanation from the investigating officer in cases

where chargesheet is not filed within 90 days. An explanation should be called from the investigating officer, as to why the investigation is not completed within a reasonable period of time and not filed the chargesheet in time and if the explanation is not found to be satisfactory, adverse remarks should be made in Confidential Records of such officers.

10 In the present case, we are informed by the instructing officers that hand writing expert's opinion was not obtained in time and therefore, the chargesheet was not filed. We are of the opinion that said explanation is not a satisfactory explanation. We are of the view that a direction should be given to the Commissioner of Police to make an enquiry in this case, however, we refrain to pass such orders because we do not want the complainant and her husband to be harassed further and if such investigation is made again, they may have to run from pillar to post and visit the office of the Commissioner of Police. We, therefore, on this ground alone do not propose to give any such direction.

11 The criminal application is, therefore, allowed in terms of prayer clause (b) and (c).

12 The Applicant No.3 Builder-Mr. Rajendra Jain, who is present in the court, voluntarily agrees to donate an amount of Rs. One Lakh to the Tata Cancer Research Institute, Mumbai.

If this donation is made, a receipt may be issued in his favour. Copy of payment made may be sent/informed to this court within four weeks. The amount may not be paid in the currency notes of denomination of Rs. 500 and Rs. 1000 in view of the current position.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J.)

.....