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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1201 OF 2015

Vijay Srigopal Khetan and and Anr. ..Applicants.

V/s.

State of Maharashtra and Anr. ..Respondents.

Mr.Balkrishna Gajanan Tangsali for the applicants.

Ms.M.H. Mhatre, APP for respondent No.1.

Mr.A.R.Maurya with Mr.Sharad Rai i/b. ARM Legal for
respondent no.2.

**CORAM : A.S.OKA AND
A.A.SAYED, JJ.**

DATED : 21ST OCTOBER, 2016

P.C. :-

1. Rule. The learned counsel appearing for the second respondent waives service. The learned APP waives service. Forthwith taken up for final disposal.

2. The prayer in this application under section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C. '), is for quashing of the first information report registered against the first applicant at the instance of second respondent for offences punishable under sections 406, 420, 506 (2) read

with section 34 of the Indian Penal Code. The prayer is made on the basis of the compromise.

3. We have perused the statement of the second respondent on the basis of which the first information report was registered. The second respondent lodged the first information report in her capacity of the Director of Conwood Reality Pvt. Ltd. The allegation in short is that, there was an agreement between the applicants and the said company for sale of TDR in respect of a particular property and substantial amount of Rs.5 crores was received by the applicants. The allegation in short is of the breach of the said agreement.

4. We have perused the affidavit of the second respondent and the documents annexed thereto. The affidavit records that there is a settlement between the applicants and the company which is represented by the second respondent. The consent terms between the applicants and the second respondent dated 14th October, 2016 has been annexed to the affidavit which records the settlement of dispute regarding grant of TDR. The draft of deed of transfer of TDR is also annexed to the affidavit along with the extracts of resolution

passed by the Board of Directors of Conwood Reality Pvt. Ltd. authorising the second respondent to sign the consent terms.

5. On the last date, after noticing that the second respondent had set the criminal law in motion in purely a civil dispute, this Court was of the view that substantial amount will have to be paid by the second respondent by way of costs. In view of the opinion expressed by the Court, the second respondent has deposited a sum of Rs.3 lakhs with the Maharashtra State Legal Aid Services Committee, Mumbai.

6. As stated earlier, the dispute subject matter of the first information report is purely a civil dispute. It is a clear and simple dispute pertaining to the transaction of sale of TDR. As there is a complete settlement of the dispute as evidenced from the affidavit of the second respondent, we have no hesitation in exercising our powers under section 482 of the Code of Criminal Procedure, 1973 for quashing the first information report. Accordingly, we pass the following order:-

- (i) Rule is made absolute in terms of prayer clause (a) which reads as under:-

“a. This Hon'ble Court may be pleased to quash and set aside the impugned First Information Report dated 07/09/2015 in C.R.No.I-342/2015 registered at Kalwa Police Station, Thane after examining its legality, validity and propriety.”

- (ii) It is not in dispute between the applicants and the second respondent that the bank account of Krishna Land Developers Pvt. Ltd. with the Kotak Mahindra Bank being Account No.06512000007743 has been freezed by the police on account of registration of the offence. The investigation officer shall issue a letter to the concerned bank to de-freeze the said account;
- (iii) All concerned to act on an authenticated copy of this order.

(A.A.SAYED, J.)

(A.S.OKA J.)