

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
 CRIMINAL APPLICATION NO. 1269 OF 2015

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Mr. Harish Kishin Ailsinghani	.. Applicant
V/s.	
State of Maharashtra and Anr.	.. Respondents

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Mr.Subir Sarkar a/w Mr.D.H. Shukla for the Applicant.
 Ms.M.H.Mhatre, APP for the Respondent-State.
 Mr. Shashi D.Pandey for the Respondent no. 2.

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

DATED : 21 SEPTEMBER 2016

P.C.:

Rule. Learned APP waives service for the first Respondent.
 Learned Counsel appearing for the second Respondent waives service.
 Forthwith taken up for final disposal.

2. The prayer in this Application under section 482 of the Code of Criminal Procedure (for short "CrPC") is for quashing the First Information Report registered at the instance of the second Respondent for the offences punishable under section 420,465,467, 120(B) read with section 34 of the Indian Penal Code. Reliance is placed on the consent terms filed between the present Applicant and the second Respondent in the Application for Anticipatory Bail. Moreover, the consent terms were filed in Suit No.510 of 2015 filed on the Original Side of this Court by the Applicant

against the second Respondent. The suit was disposed of in terms of the consent terms by order dated 24 November 2015 passed by the learned single Judge. Our attention is also invited to the Deed of Settlement dated 28 July 2016 executed by and between the Applicant and the second Respondent, in which the terms of the settlement have been incorporated. It records that the dispute between the parties was as regards Flats No.701 and 801 in building known as "Karishma".

3. We have perused the consent terms filed in Suit No.501 of 2015. In the consent terms, Clause No.10 provides for the second Respondent cooperating with the Applicant for quashing the FIR, subject matter of this Petition. The settlement between the parties as regards the said two flats has been recorded in the consent terms. There are Affidavits on record filed by the second Respondent on 9 December 2015 and 4 May 2016. Last Affidavit records that in terms of the settlement, the second Respondent received a sum of Rs.2,80,00,000/- and a sum of Rs.33,20,000/- has been paid by way of stamp duty. To the present Application, a copy of the Sale Deed dated 11 May 2015 has been annexed, which is executed in favour of the second Respondent in respect of Flat Nos.3A. Paragraph (4) of the last Affidavit of the second Respondent records that as the aforesaid amounts have been paid to the second Respondent, on her own she has undertaken to remove the encumbrances on Flat No.3A.

4. We have perused the First Information Report. The dispute reflected from the First Information Report has predominantly a civil flavour. Now, there is a complete settlement of dispute as evident from the terms of settlement placed on record and as evident from the compromise recorded in the civil suit as well as in various documents annexed to the Application.

5. In view of the settlement, this is a fit case where the law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab and anr.**¹ will apply.

6. Accordingly, the Application must succeed and we pass the following order:

Rule is made absolute in terms of prayer clause (a), which reads thus:

(a) This Hon'ble Court be pleased to quash and set aside the said complaint F.I.R. bearing No.11 of 2015 registered with the Economic Offences Wing, Unit III, Mumbai (corresponding FIR No.83 of 2015, registered with the Bandra Police Station) against the Applicant

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303