

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

WRIT PETITION NO. 538 OF 2017

Arjun Kondiba Choudhari

..Petitioner

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. Sachin Ramrao Pawar for the Petitioner.

Mr. K.V.Saste, APP for the Respondent No.1.

Mr. Nikhil Mallelwan for the Respondent No.2.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 16TH FEBRUARY, 2017**

P.C.

1. Rule. The learned APP waives service for the first Respondent.

The learned Counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer for quashing the first information report is made in this petition on the basis of the settlement between the Petitioner and

the second Respondent who is the first informant. The First Information Report is registered at the instance of the second Respondent for the offence punishable under Section 420 of the Code of Criminal Procedure, 1973. The allegation is that the second Respondent paid certain amount to the Petitioner by way of consideration towards sale of a flat. The allegation is that ultimately the Petitioner avoided to hand over the possession of the said flat.

3. The learned Counsel appearing for the second Respondent has tendered an affidavit of the Second Respondent who is personally present in the Court. Paragraph 2 of the affidavit records that in full and final settlement of the claim of the second Respondent, he has agreed to accept the sum of Rs.4,50,000/- from the Petitioner. Out of the said amount, a part amount of Rs.1,50,000/- is paid to the second Respondent by the Petitioner by two pay orders the details of which have been incorporated in the affidavit. Today, the learned Counsel appearing for the Petitioner has handed over to the second Respondent a pay order in the sum of Rs.3,00,000/- (Rupees Three Lakhs) drawn in the name of the second Respondent, issued by the

Navi Mumbai Co-operative Bank Limited. The said pay order has been accepted by the second Respondent.

4. The perusal of the allegations made in the First Information Report shows that the dispute is purely of a civil nature in relation to a transaction of sale of a flat. The case has overwhelmingly a civil flavour. Now there is complete settlement in terms of money of the dispute over the sale of the flat.

5. The offence alleged cannot be said to be of serious nature and against the society at large. Therefore, this is a fit case to exercise power under Section 482 of the Code of Criminal Procedure, 1973 for quashing the First Information Report.

6. Accordingly, we pass the following Order:-

i) Rule is made absolute in terms of prayer clause (b) which reads thus:

“This Honourable Court may be pleased to quash and set aside the C.R.No. 508 of 2016, registered with the Nerul Police

Station, Navi Mumbai under Section 420 of the Indian Penal Code with the consent of Respondent No.2 (Original Complainant)".

- ii) All concerned to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)