

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

CRIMINAL APPLICATION NO. 1377 OF 2016

1. Rajesh Babulal Vardhan & Anr. ... Applicants

Vs

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

Mr. Saurabh Butala i/b Mr. Harshad Sathe and Mr. Harshad Bhadbhade for the Applicant.

Mr. K.V. Saste, APP, for the Respondent-State.

Mr. Dipak Singh i/b Mr. Ravi P. Jadhav for the Respondent No.2.

***CORAM : S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.***

THURSDAY, 30TH MARCH, 2017

P.C. :

1 The applicants are seeking quashing of the criminal proceedings.

2 The FIR was registered at the instance of the occupants of a building standing on a property which was redeveloped by the applicants. The second respondent -

complainant and one Mr. Dipesh Mehta approached the V.P. Road Police Station to file an FIR. That was registered. The offences alleged are punishable under section 420 and 34 of the Indian Penal Code. A copy of this FIR is at page 15 of the paper-book.

3 The argument of the applicants' advocate is that there was a pure civil dispute arising out of the execution and enforcement of two agreements styled as Permanent Accommodation Agreement / Agreement for Permanent Accommodation. There was a dispute with regard to some additional area. That is how though the moneys were paid, the assured area was not made available. Such a dispute and essentially civil in nature is made the subject matter of the FIR.

4 We are relieved of our obligation and duty in law to find out whether there is substance in these allegations of the applicants. The complainant and the other person known as Dipesh Mehta have filed affidavits before us. Though they are affidavits stated to be in reply, they admit each of the allegations made against these complainants in the writ petition. They admit that they approached the concerned Police Station, namely, V.P.

Road Police Station and at their instance, C.R. No. 411 of 2016 was registered. That is out of sheer misunderstanding. Now, there is a full and final settlement of their claims. Meaning thereby, having accepted certain moneys, they gave up their claim towards additional area. There is an agreement found for Permanent Alternate Accommodation dated 9th July, 2008, with the original complainant Bhanwarlal Jain. However, there is now a deed of rectification dated 9th February, 2009, waiving the rights and interest in respect of the additional area. Thus, by the deed of rectification the earlier agreement stands cancelled to the extent indicated above.

5 This is the position obtaining even with regard to Mr. Dipesh Mehta. He had a shop in the existing building and in lieu of which he was assured one shop in the reconstructed / redeveloped premises. However, there was a claim made for additional area and an amount also was paid. On identical lines as in Bhanwarlal Jain, even this Dipesh Mehta has settled the claim and there are two deeds, one the original agreement and, the latter one, a deed of rectification. The claim for additional area is given up.

6 Both the complainants are present in Court. They state that they have understood the contents of the affidavits tendered by their advocate today in Court with all their legal implications. They have understood that by this arrangement, they have given up their right, title and interest for any additional area. They have also settled the claim in that regard by accepting the moneys paid by the accused / applicants in full and final settlement of their claim. They have no complaint now with regard to the redevelopment project.

7 It is on such an understanding we inquired from both these complainants present in Court that whether they have filed these affidavits voluntarily and without any pressure or force. In our presence, they have made the statement that the signatures on these affidavits are placed voluntarily and without any pressure, force or coercion. They have understood the statements with all the legal implications. After that they have signed these affidavits. They have identified their signatures. They have also identified themselves. In such circumstances there is no hesitation in taking these affidavits on record,

allowing this criminal application and quashing the FIR. The Criminal Application before us is allowed in these terms.

PRAKASH D. NAIK, J.

S.C. DHARMADHIKARI, J.