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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4093 OF 2016

Jayantilal Popatlal Shah & Ors. ...Petitioners
vs.
The State of Maharashtra & Ors. ...Respondents

Mr.Vivesh V. Purwant i/b Mr.R.D.Suryawanshi for the
Petitioners
Dr.F.R.Shaikh, APP for the respondent No.1
Mr.Sachin Deokar for respondent no.2

CORAM : A.S.OKA, &
 SMT.ANUJA PRABHUDESSAI, JJ.
DATE : MARCH 1, 2017

P.C.:

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

2 By this petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 (for short Cr.PC), a prayer is made for quashing the FIR registered at the instance of the second respondent for the offence punishable under sections 420, 465, 468, 471 read with section 34 of the Indian Penal Code.

3 The prayer for quashing is made on the basis of the amicable settlement. There is a reply filed by the second respondent. The allegations in the FIR

show that the case of the second respondent was that on the basis of the alleged forged documents, the petitioners transferred the property subject matter of the grievance to one Keshubhai by a registered sale deed dated 26th March 2009. The allegation is that the second respondent along with family members are entitled to one half share. In the affidavit of the second respondent it is stated that a deed of rectification was subsequently executed for correcting the area mentioned in the sale deed. In view of the correction carried out and acceptance thereof by the first petitioner and the purchaser of the right, title and interest of the second respondent and his family members, the second respondent has stated that he has no objection for quashing the FIR.

4 We have perused the FIR. On the face of it, it is clear that the real dispute between the parties is as regards the title to the irremovable property. As evidenced by the affidavit of the second respondent as well as the deed of rectification and confirmation executed by the first petitioner and the purchaser, now there is a complete settlement of the property dispute.

5 Perusal of the allegations in the FIR show that the case has predominantly a civil flavour and in fact on the basis of the facts alleged, the second respondent ought not to have set criminal law in motion. The second respondent has paid a Donation of Rs.50,000/- to the Tata Memorial Centre and a

receipt there of is produced for our perusal.

6 Considering the settlement of the dispute in respect of the property, this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973 for quashing the FIR.

7 Accordingly, we pass the following order:

(I) 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 F.I.R.No.76 of 2016 filed by the respondent No.2 against the petitioners with Kinavali Police Station, Taluka Shahapur, District Thane for the offence punishable u/s. 420, 465, 468, 471 and 34 of Indian Penal Code."

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)