

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.104 OF 2020

Chamanlal Hansraj Gupta and others	 Applicants
Versus	
The State of Maharashtra and another	 Respondents

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Mr. Gautam Kanchanpurkar, Advocate for the Applicants.

Ms. M.H. Mhatre, APP for Respondent No.1 -State.

Ms. Priya Patil, Advocate i/b. Ramdas Shelke, Advocate for Respondent No.2.

Mr. Vikas Patil, Respondent No.2 is present in person.

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**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 07 OCTOBER 2021

P.C.

Heard the learned counsel for the parties.

2. This Application is filed under Section 482 of Criminal Procedure Code seeking to quash the First Information Report bearing No. I-007 of 2019 dated 4 January 2019 registered with Palghar Police Station for the offences punishable under Sections 403, 406, 419, 420, 467, 468 and 120-B of the Indian Penal Code.

3. The First Information Report was lodged by Respondent No.2 upon which a charge-sheet came to be filed. Respondent No.2 stated that he owned a property bearing Survey No.832/1 situate at

village Mahim, Taluka and District Palghar. The Applicants had started using a part of the property of Respondent No.2, more particularly, for a ten feet road. The allegation of Respondent No.2 is that the Applicants fabricated documents and obtained permissions and got a development plan sanctioned by the Planning Authority. When Respondent No.2 asked for explanation from the Applicants, the Applicants did not show any response and did not give any satisfactory answers. Accordingly, on the allegation that a part of his property was used by the Applicants by using fabricated documents, the First Information Report was filed.

4. The learned counsel for the Applicants and the learned Counsel for Respondent No.2 state that the parties have resolved their dispute and Respondent No.2 has filed an affidavit sworn before the Assistant Registrar of this Court. Respondent No.2 is present in the Court with whom we have interacted. He has informed us that as regard the part of the property to be used as road by the Applicants, he has received monetary compensation. The affidavit filed by Respondent No.2 reiterates this fact.

5. The learned counsel for the Applicants has drawn our attention to the agreement assigning easementary rights to the Applicants on payment of monetary compensation.

6. Considering the nature of the First Information Report, and now that Respondent No.2 has been compensated in terms of money for the property used by the Applicants, we are of the

opinion that this case would fall within the parameters laid down by the Apex Court in the case of *Gian Singh Vs. State of Punjab and another reported in (2012) 10 SCC 303* and the First Information Report can be quashed in view of the consent now given by Respondent No.2. It is also quite obvious that in view of this affidavit and agreement, the Respondent No.2 will not support the prosecution and keeping such prosecution pending will be a needless formality. The learned APP has also not pointed out anything adverse for which we should not take cognizance of the consent of Respondent No.2 for quashing the FIR.

7. In view thereof, the application is disposed of in terms of prayer clauses (b) and (c), which read thus :

“(b) *To quash and set aside Crime bearing F.I.R. No.I-007 of 2019 dated 04/01/2019 registered with the Palghar Police Station against the applicants;*

(c) *To quash and set aside the Regular Criminal Case No.256 of 2019 on the file of the Learned Judicial Magistrate First Class, Palghar against the applicants;”*

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)