

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 357 OF 2021

Sudhakar Narayan Shetty. ... Petitioner.
V/s.
Bhadrik Kantilal Zaveri and another. ... Respondents.

Mr.Rishikesh Soni i/b. Raveena Yadav for the Appellant.
Mr.Gaurav Parkar for Respondent No.1.
Ms.S.D.Shinde, APP for the Respondent- State.

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

DATE : **25 November 2021.**

P.C. :

This application is filed for quashing the FIR No.179/2019 registered with L.T.Marg Police Station for the offences punishable under sections 420, 465, 467, 468 and 469 of the Indian Penal Code. The learned counsel for the Applicant and the learned counsel for Respondent No.1 state that parties have resolved their dispute and consent terms have been filed in Small Causes Court, Mumbai in which Respondent No.1 has agreed to give consent for quashing of the present FIR and that consent affidavit of Respondent No.1 is also filed in this criminal application.

2. The learned counsel for the parties state that the case at hand falls within the law laid down by the Apex Court in the case of *Gian Singh v. The State Of Punjab*¹. In the context of this payer, we have examined the record. It is the case of Respondent No.1 in the FIR that the Applicant was given shop on leave and licence basis by Respondent No.1. The Applicant stopped paying rent and since rent was not paid, Respondent No.1 filed suit in the Small Causes Court being L.E. & C. Suit No.136/2016 seeking possession of the shop. It was the case of Respondent No.1 that Respondent No.1 found that the Applicant had changed the name on the electricity bill to himself without the knowledge of Respondent No.1- landlord and, thus, FIR was lodged under sections 420, 465, 467, 468, 471 of the Indian Penal Code.

3. The suit filed in the Small Causes Court by Respondent No.1 against the Applicant was decreed. In the appeal filed against the said order, consent terms were filed by the parties whereby the Applicant withdrew the appeal on understanding arrived at between the parties. In clause-10 of the consent terms filed before the Small Causes Court, Respondent No.1 undertook not to prosecute the FIR. In the affidavit tendered before us, contents of the same are reiterated by Respondent No.1. Respondent No.1 has specifically stated that he has given his unconditional consent for quashing of FIR. Since consent affidavit of Respondent No.1 pursuant to the consent terms

¹ (2012) 10 SCC 303

is placed on record of the Appellate Bench of Small Causes Court and accepted, it is clear that consent is voluntary. The contents of FIR also show that the dispute is between the landlord and licensee and it will not affect the society at large. In the light of this factual position, the contention of the learned counsel for the Applicant and Respondent No.1 state that present case falls within the law laid down *Gian Singh v. The State Of Punjab* will have to be accepted.

4. In the light thereof, application is allowed in terms of prayer clause (b) which reads thus:

(b) this Hon'ble Court be pleased to quash FIR No.179/2019 registered with L.T.Marg Police station and pending as Police Case No.PW/2800821/2019 for offences under Sections 420, 465, 467, 468 & 469 of the Indian Penal Code against the Applicant.

5. The Applicant and Respondent No.1 will pay Rs.10,000/- each to the concerned Police Welfare Fund within a period of four weeks from today. The present order is conditional upon the above payment.

6. The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)