

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

944 CRIMINAL APPLICATION NO.650 OF 2022

**SATISH SOMA WARDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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**Advocate for Applicants:
Mr. Vinod Patil h/f. Mr. Ravindra B. Ade
APP for Respondent No.1: Mr. S. J. Salgare
Advocate for Respondent No.2:
Mr. Rupeshkumar C. Bora**

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**CORAM: SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE: 19th JULY, 2022

PER COURT:

1. This is an Application for quashing of the F.I.R. registered vide C.R. No.0035 of 2022 registered at Chopda City Police Station, District Jalgaon under Section 406, 420 and 120-B of the Indian Penal Code, 1860. This Application is filed on the basis of the settlement arrived at between the parties. The investigation is not yet completed and the charge-sheet is not yet filed.

2. Heard learned Counsel for the parties.

3. The F.I.R. mentions that the informant / Respondent No.2 was working with B.S.F. He retired voluntarily on 31.03.2021. While he was in the job, he was working with B.S.F. In the year 2015, he saw advertisement boards of Bhiman Group regarding purchase and sale of plots. To invest his money in a plot the informant decided to purchase one plot. He went to the office of Bhiman Group. There he met all the Applicants. The Applicants Satish and Jitendra are brothers and other two Applicants are their employees. The Applicants told that they had plots for sale at Lumbini 1. They showed him Plot No.55/W and told him that investing in that plot would be beneficial. They also told him that in case of any difficulty he could always contact the Applicants Jitendra and Vishal. Believing the accused; informant decided to purchase that plot for Rs.9,13,260/-. It is his case that from time to time till April 2017 he paid Rs.3,75,000/- towards purchase of the plot. However, the plot was not transferred in his name. The money was not

refunded. In the meantime, the informant came to know that an offence was registered against this group and Applicant No.1 was absconding. The Applicants Jitendra and Vishal were arrested. Somehow he got in touch with the accused and demanded his money. He was returned Rs.1,00,000/- but the amount of Rs.2,75,000/- was misappropriated and on that basis the F.I.R. is lodged.

4. Learned Counsel for Respondent No.2 invited our attention to the *affidavit-in-reply* filed on behalf of Respondent No.2. In that affidavit he has stated that the Applicants were his distant relatives and that they have decided to compromise the matter out of the Court with the help of their close relatives. In Paragraph No.3 he has stated that the Applicants had already returned the amount of Rs.2,75,000/- by way of Bank transfer on 10.02.2022 and there was no remaining issue regarding that amount. He has concluded the affidavit by stating that this Court

can quash and set aside the F.I.R. and that Respondent No.2 has no objection for the same.

5. Learned APP further strongly objected granting any relief in this Application. He invited our attention to the *affidavit-in-reply* filed by the Investigating Officer. In that affidavit, a chart of four offences pending since the year 2012 is mentioned. He submitted that out of these four cases three cases were settled by the Applicants – accused and, therefore, it is clear that the present case is not an isolated case but the Applicants are in the habit of committing these kind of offences.

6. Learned Counsel for the Applicants submitted that the Applicants are in this business since past many years and on some occasion some dispute arises between the purchasers and the applicants; that does not mean that the Applicants have committed these offences which are reflected in the *affidavit-in-reply* filed by the Investigating Officer.

7. We have considered these submissions and the averments in both the above affidavits.

8. Since, Respondent No.2 – the informant has received the amount and since he does not want to proceed with this case; there is no point in permitting continuation of these proceedings. It would be sheer waste of time and energy and other resources. This can be avoided. At the same time, the submissions of learned APP with reference to the *affidavit-in-reply* of the Investigating Officer also needs to be considered. Therefore, though, we are inclined to allow this Application, some cost can be awarded against the Applicants for causing registration of crime and investigation into the offences by the Police Officers which has resulted in spending time and energy on the part of the Investigating Officer.

9. In this view of the matter, following order is passed-

ORDER

[I] The F.I.R. registered vide C.R. No.0035 OF 2022 registered at Chopda City Police Station, District Jalgaon is quashed and set aside.

[II] This order is subject to the condition that the Applicants shall deposit Rs.25,000/- (Rs. Twenty Five Thousand only) in the Jalgaon District Police Welfare Fund {Account Name: President, District Police, Jalgaon, Account No.11145000049, IFSC: SBIN0000393} within a period of four (04) weeks from today.

10. The Criminal Application stands disposed of.

[BHARAT P. DESHPANDE, J.] [SARANG V. KOTWAL, J.]

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