

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

953 CRIMINAL WRIT PETITION NO.1539 OF 2021

**SAMEER S/O CHIRAGODDIN SHAIKH AND OTHERS
VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners: Mr. Saeed S. Shaikh

APP for Respondent No.1: Mr. R. V. Dasalkar

Advocate for Respondent No.2: Mr. S. M. Gunjal

...

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

DATE: 17th JUNE, 2022

PER COURT:

1. This is petition for quashing of the F.I.R. bearing C.R. No.296/2017 dated 19.08.2017 registered at Citychowk Police Station along with the charge-sheet bearing No.117/2020 dated 19.06.2020 resulting in proceedings bearing no.1136/2020 pending before the Judicial Magistrate First Class, Aurangabad. The offence alleged are under Sections 420, 467, 468, 471, 167, 506 and 120-B of the IPC. The petition is for quashing by consent.

2. Heard Mr. Saeed S. Shaikh, learned Counsel for the Petitioners, Mr. R. V. Dasalkar, learned APP for Respondent No.1 and Mr. S. M. Gunjal, learned Counsel for Respondent No.2.

3. The F.I.R. is lodged by Respondent No.2 on 19.08.2017. She has stated that the Petitioner No.3 Shujaoddin and Petitioner No.1 Sameer were her brothers-in-law i.e. the brothers of the deceased husband Moinoddin and Petitioner No.2 was husband of Moinoddin's sister. The allegations in the F.I.R. are that Moinoddin had purchased a plot No.68 bearing Gut No.27/1 at Kamalnagar Cooperative Housing Society, Bhavsingpura, Aurangabad admeasuring 150 Sq.Mtrs. vide Sale Deed dated 15.07.2008. In the year 2009, Moinoddin suffered from cancer. In the year 2013, the informant herself had suffered a stroke. Moinoddin succumbed to his illness on 27.08.2015. The allegations in the F.I.R. are that, as the informant was harassed by the other family members of the Moinoddin; she started residing separately from them. In the year 2016, she came to know that

the aforesaid plot was transferred in the name of the Petitioner No.3 Shujauddin vide Mutation Entry No.4874. According to the first informant, the Gift Deed based on which the plot was transferred; was a forged document. The Gift Deed was never signed by Moinuddin. There were signatures of the Petitioner No.1 – Sameer and Petitioner No.2 – Minhajoddin as witnesses. On this basis, the F.I.R. was lodged. The investigation was carried out and the charge-sheet was filed.

4. Learned Counsel for the parties jointly submitted that the dispute is now settled between the parties and *affidavit-in-reply* on behalf of the Respondent No.2 mentioning this fact is filed on record. It is affirmed before the Section Officer of this Court. In para no.5 she has specifically mentioned that the parties have amicably resolved the dispute and do not have complaints / issues against each other. In paragraph no. 3, she has given her categorical consent for quashing all these proceedings.

5. The Hon'ble Supreme Court in the case of Gian Singh Vs. State of Punjab and another reported in (2012) 10 SCC 303, has held that the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute can be quashed.

6. In the present case, wrong caused to Respondent No.2 was basically private and personal in nature. In this view of the matter, considering the compromise between the offenders and the victim, the possibility of conviction is very less. The continuation of the criminal case would not serve any purpose and, therefore, this is a fit case where the proceedings can be quashed.

7. Hence the application is allowed in terms of prayer clause "B". The C.R. No.296/2017 registered at Citychowk Police Station, Aurangabad

along with the charge-sheet bearing No.117/2020 and the consequential proceedings bearing Regular Criminal Case No.1136 of 2020 pending before the Judicial Magistrate First Class, Aurangabad are quashed and set aside as far as the present the Petitioners are concerned. The Petitioners shall pay Rs.10,000/- (Rs. Ten Thousand only) by way of costs to any Police Welfare Fund at Aurangabad within a period of six (06) weeks from today.

8. Criminal Writ Petition is disposed of.

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

marathe