

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATOIN NO.56 OF 2018

Ekta Housing Pvt. Ltd. & Ors.

.... Applicants

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Ms. Supriya Kak a/w Nitesh Ranavat a/w M/s. Disha Shetty a/w Mr. D. Dedhia i/b. Wadia Ghandy & Co., Advocate for Applicants.
- Mr. Mainak Adhikary i/b. Mr. Sanjay Bhojwani, Advocate for Respondent No.2.
- Smt. J. S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 06th SEPTEMBER, 2022

P.C. :

1. This is an application filed for setting aside the order dated 11/01/2018 passed by the Additional Sessions Judge, Pune, in Criminal Revision Application No.647 of 2017 and to quash and set aside the order directing issuance of process dated 24/10/2017 passed by the Judicial Magistrate First Class, Pune, in Regular Criminal Case No.975 of 2017.

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2. Learned Magistrate had issued process u/s 406, 420, 506 r/w 34 of the Indian Penal Code and u/s 13 of Maharashtra Ownership of Flats Act, 1963. The dispute between the parties was pertaining to a flat situated in the building known as Oakland, at Pune, at NIBM Road. The Applicants are the original accused Nos.1, 2 and 3. After issuance of process the Applicants had challenged that order before the Sessions Court at Pune. The Revision Application was dismissed and therefore this application is filed challenging those orders.

3. Now the dispute is settled between the parties. The Respondent No.2 who is the original complainant has filed an affidavit before this Court. He is present before the Court and he is identified by the advocate Mr. Mainak Adhikary h/f Mr. Sanjay Bhojwani, who is on record for the Respondent No.2.

4. The affidavit is taken on record. In the affidavit there are categorical averments in paragraph Nos.8 and 9 that the parties had agreed to close all the cases and there remains no *lis* between them and that there would be no point in continuing the prosecution

against the Applicants in Criminal Case No.975 of 2017 before the Court of Judicial Magistrate First Class, Pune. In paragraph No.9, the complainant – Respondent No.2 has given his unqualified and irrevocable consent to quash Criminal Case No.975 of 2017 pending before Judicial Magistrate First Class, Pune and for allowing present Criminal Application filed by the Applicants.

5. Considering the settlement between the parties and clear averments in the affidavit filed in the Court today, in the interest of justice, the proceedings pending before the Magistrate's Court can be quashed and set aside. Therefore the Application is allowed in terms of prayer clause (i). The order dated 11/01/2018 passed by the Additional Sessions Judge, Pune, in Criminal Revision Application No.647 of 2017 and also the order issuing process dated 24/10/2017 passed by the Judicial Magistrate First Class, in RCC No.975 of 2017 are quashed and set aside.

(SARANG V. KOTWAL, J.)