

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

CRIMINAL WRIT PETITION NO. 3723 OF 2021

1. Waman Nathram Kudtarkar

2. Harishchandra Mahadev Pote

3. Savita Rajesh Achrekar

4. Kalpana Kashiram Panchal ...Petitioners

VS.

1. The State of Maharashtra

2. Sr. Inspector of Police,
Tardeo Police Station, Mumbai.

3. Gajraja Kisan Butia ...Respondents

Mr. Shubham Mishra i/by Mr. Yogesh Tripathi - Advocate for
the Petitioners

Mr. Ashok B. Mishra - Advocate for the Respondent No. 3

Mr. K. V. Saste - APP for the Respondent-State

**CORAM : REVATI MOHITE DERE &
 S. M. MODAK, JJ.**

DATE : 06th OCTOBER, 2022

P. C. :-

1. Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the

consent of the parties and the petition is taken up for final disposal. Learned A.P.P. waives notice on behalf of the Respondent No.1-State. Mr. Ashok B. Mishra waives notice on behalf of the Respondent No.3.

3 By this petition, the Petitioners seek quashing of the FIR, bearing M.E.C.R. No. 70 of 2014 registered with the Tardeo Police Station, Mumbai, for the alleged offences punishable under Sections 416, 419, 420, etc. of the Indian Penal Code. Quashing is sought on the premise, that the Petitioners and the Respondent No. 3 have amicably settled their dispute and entered into consent terms and that the Respondent No. 3 (original complainant) has given her no objection to the said quashing.

4. Perused the papers. According to the Respondent No. 3 (Original complainant), though she was an eligible member in the Navmaharashtra Nagar SRA Sahakari Griha Nirman Sanstah and was eligible for a that, being Flat No. 1104, on the 11th floor in B/2F building MP Mill Compound,

Tardeo, she was not given the said flat and instead the Petitioners' gave the said flat to one Savita Aachrekar. As the Respondent No. 3 had did not receive possession of the flat in question from the Petitioners despite being eligible for the said flat, she lodged a private complaint, as against the Petitioners in the Court of the Learned Metropolitan Magistrate, 4th Court, Girgaon, Mumbai, pursuant to which the learned Magistrate passed an order under Section 156(3) of Criminal Procedure Code. Accordingly, the Police registered MECR No. 70/14 as against the Petitioners. After investigation, charge-sheet was filed and the case is presently pending before the learned Metropolitan Magistrate, 4th Court, Girgaon, Mumbai, being CC No. 149/PW of 2016.

5 It appears that in the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and entered into Consent Terms. The said consent terms dated 14/12/2021 have been duly signed by the Petitioners and the Respondent No. 3 and

their respective advocates. The said Consent terms are taken on record. It appears from the said consent terms, that the Respondent No. 3 received possession of the flat in question, pursuant to the Order dated 20/01/2020 passed by this Court in Civil Writ Petition No. 474 of 2015. As per the consent terms, the Petitioners agreed to handover all the original documents pertaining to the said flat, to the Respondent No. 3.

6 The Respondent No. 3 is present in-person. She has received the documents pertaining to the flat.

7 Learned counsel for the Petitioners on instructions assures that any other additional documents, if required, will be handedover to the Respondent No. 3. The said statement is accepted. Learned counsel for the Petitioners further states that the SRA has also handed over all documents, as required, in favour of the Respondent No. 3.

8 As noted above, the consent terms were entered

into between the Petitioners and the Respondent No. 3 on 14/12/2021. Learned counsel for the Petitioners and learned counsel for the Respondent No. 3, on instructions, state that the parties will abide by the terms and conditions as stipulated in the consent terms. The Respondent No. 3 has also filed her affidavit dated 14/12/2021 duly notarized before the Notary. In the said affidavit, she has stated that she has received possession of the flat in question, pursuant to the order passed by the Division Bench of this Court. She has also stated that she will abide by the terms set out in the consent terms. She has also given her no objection for quashing of the aforesaid F.I.R./proceedings, initiated at her behest. A xerox copy of the Aadhar card duly attested by Respondent No. 3 is annexed to the consent terms. Learned Counsel for the Respondent No. 3 has identified the Respondent No. 3 and the learned APP has verified the original Aadhar card of the Respondent No. 3.

9 Considering the nature of dispute, the amicable

settlement between the parties, the consent terms entered into between the parties, the affidavit of the Respondent No. 3, and the fact, that the Respondent No. 3 has received possession of the flat in question, there is no impediment in allowing the petition.

10 The petition is accordingly allowed and the FIR bearing, M.E.C.R. No. 70 of 2014 registered with the Tardeo Police Station, Mumbai, for the alleged offences punishable under Sections 416, 419, 420, etc of the Indian Penal Code is quashed and set-aside and consequently, the proceeding arising from the said M.E.C.R. which is pending before the learned Metropolitan Magistrate, 4th Court, Girgaon, Mumbai, being CC No. 149/PW of 2016., is also quashed and set-aside.

11 Rule is made absolute in the aforesaid terms and the Petition is disposed of accordingly.

12 Petitioners to pay cost of Rs. 10,000/- each, with the **Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060** within six weeks from today. Apart from the aforesaid, Petitioners to also pay a sum of Rs. 10,000/- each, to the Respondent No. 3 within six weeks from today. It is made clear, that this Order quashing the Complaint/FIR/Proceeding, is subject to the Petitioners complying with the order of deposit/paying of costs within the stipulated period.

13 Stand over to **21/11/2022 for recording compliance of the Order.**

14 All concerned to act on the authenticated copy of this order.

[S. M. MODAK, J.]

[REVATI MOHITE DERE, J.]