

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.402 OF 2022**

Rohan Shivkumar Agrawal ... Applicant
Vs.
The State of Maharashtra And Anr ... Respondents

Mr. Meghdeep Oak – Advocate for the Applicant.
Ms. Radha Halbe – Advocate for Respondent No. 2.
Ms. Vandana Shah – PHO on complainant.
Mr. K. V. Saste – APP for Respondent - State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 22nd April, 2022

P.C. : (Per. S. M. Modak, J)

1. Heard Mr. Meghdeep Oak, the learned advocate for Applicant, Ms. Radha Halbe, the learned advocate for Respondent No.2 and Mr. K. V. Saste, learned APP for the Respondent-State.

2. Respondent No.2 was cheated by one Smt. Jyoti Chavan, Accused No.1 (who is not before us) & by accused No.2 Rohan who is present sole Applicant. Applicant was in need of flat and through certain persons he was introduced to accused Jyoti Chavan & present Applicant. Accused Jyoti pretended to be an officer of MHADA and

both the accused assured Applicant to give him MHADA flat for Rs.2,75,00,000/-. Applicant paid Rs.12,00,000/- in cash.

3. Respondent No.2 was issued 2 cheques for Rs.7,00,000/- & 5,00,000/- with understanding that cheques will be presented if letter of allotment is not issued, Respondent No.2 deposited those cheques but they were not honoured. After long persistence, accused Jyoti returned Rs.3,00,000/- in cash and issued two fresh cheques one for Rs.42 Lakhs & another for Rs.5 Lacks. Both the cheques were dishonoured on presentation. That is how Respondent No.2 filed complaint with Kherwadi Police Station, Mumbai and offence bearing FIR No.94 of 2019 for the offences punishable under Sections 406 & 420 read with 34 of the Indian Penal Code, 1860 was registered. The present Application for quashing is filed on the basis of settlement.

4. Respondent No.2 has filed an affidavit. Present Applicant who is accused No.2 has agreed to pay Rs.9,00,000/-to the Applicant by way of final settlement. Separate consent terms dated 29.03.2022 executed before Notary is also filed on record. Respondent No.2 has reiterated terms of settlement in the affidavit also. Respondent No.2 is handed over demand draft issued by ICICI Bank for Rs.9 lakhs & its copy is filed on record.

5. This settlement is executed only with Applicant. Respondent No.2 has agreed to return back Rs.9 lakhs to Applicant in case accused Jyoti will pay that amount. This is the term decided in between the parties and Court cannot express any opinion on that. The offence is registered on account of booking of flat from MHADA. As there is settlement, continuance of the prosecution will be in futility. Hence we are inclined to exercise power under Section 482 of Code of Criminal Procedure. Hence following Order:-

ORDER

- a) Criminal Application No.402 of 2022 is allowed.
- b) FIR No.94 of 2019 registered at Kherwadi Police Station, Mumbai under Sections 406 and 420 read with 34 of IPC is quashed and set aside qua the Applicant.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)