

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

**CRIMINAL APPLICATION NO. 1078 OF 2021**

Umesh Ramesh Patil

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr. Dheeraj Panchange for the Applicant.

Mr. J. P. Yagnik, APP for Respondent No. 1- State.

Ms. Naina P. Boraste h/f Adv. G. R. Agrawal for Respondent No. 2.

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**CORAM : PRASANNA B. VARALE AND  
SURENDRA P. TAVADE, JJ.**

**DATE : 01<sup>st</sup> MARCH, 2022.**

**P.C. :**

. Heard learned Counsel for the Applicant, Respondent No. 2 and the learned APP for the Respondent-State.

2. The Applicant has filed this application for seeking quashment of FIR No. 359 of 2019 registered with Padgha Police Station, Thane Rural, for the offence punishable under Sections 409, 411, 420, 426, 463, 464, 465, 466, 467, 468, 470, 471 r/w 34 of Indian Penal Code.

3. The facts giving rise to the present petition can be summarized as under:

Respondent No. 2 lodged FIR against the Applicant wherein he

has contended that he is owner of a plot situated at village Bapgaon, Tal- Bhiwandi. He entered into registered agreement with the Applicant on 23 November, 2005. Respondent No. 2 also executed development agreement in favour of the Applicant. The Applicant had agreed to hand over 50% amount of constructed portion to Respondent No.2. Accordingly, the Applicant constructed the premises but refused to hand over 50% amount of constructed portion to Respondent No. 2. It is also alleged that Applicant had manipulated the development agreement and refused to act upon the original development agreement. Hence, Respondent No. 2 registered the FIR against the Applicant.

4. It is contended that there was misunderstanding between the Applicant and Respondent No. 2 regarding contents of the said agreement executed between them. It is contended that Respondent No. 2 had filed a Regular Civil Suit No. 75 of 2019 before learned Civil Judge, Junior Division, Bhiwandi. In the said suit, parties have settled their dispute amicably and they filed settlement deed before the Civil Court. The said settlement deed is produced on record at Page No. 95 and it is marked 'X' for identification. Respondent No. 2 has also filed an affidavit-in-reply in the present petition, wherein he has admitted the contents of settlement deed executed between himself and the Applicant dated 16<sup>th</sup> February, 2021. It is also stated that he has settled the dispute with the Applicant. At the time of hearing, the Applicant as well as Respondent No. 2 were present in the Court. On

specific query put to Respondent No. 2, he admitted the contents of the affidavit-in-reply and settlement deed. Respondent No. 2 also reiterated that he has settled the dispute with the Applicant.

5. In view of the above facts, we are of the opinion that the continuation of the proceedings against the Applicant would be nothing but an act of futility and no purpose would be served by keeping the proceeding pending before the Court.

6. Learned Counsel for the Applicant relied on the observation of the Apex Court in the case of **Gian Singh V/s. State of Punjab & Anr., reported in 2012(10) SCC 303.**

7. Considering the above facts, we are of the opinion that the learned Counsel for the Applicant made out a case for allowing the application. Accordingly, the application is allowed in terms of prayer clause 'a' subject to the Applicant and Respondent No. 2 to deposit an amount of Rs.50,000/- each, in the account of Police Welfare Fund, Thane, within a period of four weeks from 01<sup>st</sup> March, 2022 and place on record a receipt thereof.

8. The application is disposed of accordingly.

**(SURENDRA P. TAVADE, J.)**

**(PRASANNA B. VARALE, J.)**