

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

CRIMINAL WRIT PETITION NO.2325 OF 2022

1. Teresa Chen
2. Ashish Suryakant Kini
3. Sunny Azad Sauda

...Petitioners

Versus

1. The State of Maharashtra
2. Ivan Martin Rocha

...Respondents

Mr. Mutahhar Khan i/b Mr. Mohd. Rehan S. Chhapra, for the
Petitioners.

Mr. J. P. Yagnik, A.P.P for the Respondent No.1– State.

Mr. Amresh B. Sharma, for the Respondent No.2.

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

DATE : 28th SEPTEMBER 2022

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Mr. Sharma waives service on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing of the FIR bearing C.R. No. 553 of 2020, registered with the Khar Police Station, Mumbai, for the alleged offences punishable under Sections 341 and 448 of the Indian Penal Code. Quashing is sought on the ground that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent No.2, the incident took place on 17th October 2020. In the said incident, the petitioner Nos.2 and 3 at the behest of the petitioner No.1 are alleged to have dis-possessed the respondent No.2 from the premises in question. Pursuant thereto, the respondent No.2 lodged the aforesaid FIR. It appears that post filing of the FIR, the parties amicably settled and resolved their dispute and entered into an Memorandum of Understanding ('MOU'). The said MOU signed by the respective parties, is at Exhibit – 'B', on page 15 of the petition. We are informed that till date charge-sheet has not been filed in the said case.

5. Learned Counsel for the respondent No. 2 has filed an affidavit of the respondent No.2 (original complainant) dated 7th July 2022, duly affirmed before the Assistant Registrar, High Court, Appellate Side. The said affidavit is on page 51 of the petition. In the said affidavit, the respondent No.2 has stated that they have amicably settled their dispute and as such he does not wish to prosecute or proceed with the complaint. He has given her no objection for quashing of the aforesaid FIR. Respondent No. 2 is present in Court. On being questioned, he re-iterates what is stated by him in his affidavit. Learned counsel for the respondent No. 2 has tendered a self attested xerox copy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2.

6. Learned APP has also verified the original aadhar card with respect to the identity of the respondent No.2.

7. Considering the nature of dispute and the amicable settlement between the parties, there is no impediment in allowing the petition. Even otherwise, both the offences alleged are compoundable.

8. The petition is accordingly allowed and the FIR bearing C.R. No. 553 of 2020, registered with the Khar Police Station, Mumbai, and all consequential proceedings arising therefrom, are quashed and set-aside.

9. The petitioners to deposit a sum of Rs.20,000/- each, with the **Maharashtra Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060**, as costs, within two weeks from today.

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

11. Stand over to 19th October 2022, for recording compliance of the said deposit of costs.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.