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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1895 OF 2022**

Umashankar R. Paliwal

... Petitioner

V/s.

State of Maharashtra and anr.

... Respondents

Mr. C.K. Tripathi for the Petitioner.

Mr. K.V. Saste, APP for the Respondent No.1 – State.

Mr. Akshay R. Kapadia for Respondent No.2.

**CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.**

DATE : 5 AUGUST 2022.

P.C.

. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.I-253 of 2021 (hereinafter referred to as “FIR”, for short) dated 2 July 2021 registered at Manekpur Police Station against the Petitioner for the offence punishable under Section 420 read with 34 of the Indian Penal Code.

2. The aforesaid crime came to be registered at the instance of Respondent No.2. According to the Respondent No.2/Complainant, the Petitioner and other accused agree to purchase land owned by him and his family members bearing Survey Nos.63, 157/2, 192/1 and 192/4 at village Diwanman within

the limits of Vasai-Virar Municipal Corporation for total consideration of Rs.22,89,27,000/- and accordingly, agreement to sell was executed. It is alleged that the Petitioner and other accused got mutated their name in 7/12 extract of lands in question, without paying him full consideration and thereby cheated him.

3. The learned Counsel for the Petitioner and the learned Counsel for the Respondent No.2 jointly submit that the parties have amicably settled the dispute. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. The learned Counsel for the parties submit that the dispute is predominately of civil character and thus the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh and ors vs. State of Punjab and anr*¹.

4. Respondent No.2 has filed affidavit dated 15 July 2022. The Respondent No.2 has admitted that they have settled the dispute amicably. Respondent No.2 has stated that he has no objection if the FIR in question *qua* the Petitioner is quashed in view of the settlement arrived at between the parties. The Respondent No.2 has filed the additional affidavit dated 5 July 2022 that in case of non-compliance of the terms and conditions of the settlement by the Petitioner, he will not file contempt proceedings before this Court

¹ (2014) 6 SCC 466

and will adopt other remedies available in law.

5. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*² has held :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those

² (2014) 6 SCC 466

prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

6. We have examined the facts of the present case in the light of principles laid down by the Hon'ble Supreme Court in the case of *Narinder Singh (supra)*. The dispute appears to be predominately of civil character. Even other wise in view of the settlement between the parties, Respondent No.2 is not going to support the prosecution case. Considering these facts and circumstances, the petition deserves to be allowed. Hence, Writ Petition is allowed in terms of prayer clause (a), which reads thus:

“a. That this Hon’ble Court by its appropriate writ, order and direction be pleased to set aside and quash F.I.R. No.I-253 of 2021 dated 02.07.2021 for the offence u/s.420 r/w. 34 of Indian Penal Code against the petitioner;”

7. Criminal Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)