

SATISH
RAMCHANDRA
SANGAR

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

Digitally signed by
SATISH RAMCHANDRA
SANGAR
Date: 2022.11.09
16:26:07 +0530

CRIMINAL WRIT PETITION NO. 2512 OF 2019

1. Mr. Mihir Chandrakant Amin
2. Mrs. Pratibha Mihir Amin
3. Mr. Viresh Chandrakant Amin ...Petitioners

Versus

1. State of Maharashtra
(Through Nigadi Police Station)
2. Mr. Pawan Mahavir Varma ...Respondents

Mr.Lokesh Zade i/b. Mr.Adwait Bhonde, Advocate for the
Petitioners.

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

Mr.Sandeep R. Waghmare, Advocate for the Respondent No.2.

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

DATE : 10th OCTOBER 2022

P.C. :

- 1 Heard the 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 APP waives

notice on behalf of the respondent no.1-State and Mr.Sandeep R. Waghmare, waives notice on behalf of the respondent no.2.

3 By this Petition, the petitioners seek quashing of the FIR, registered vide C.R. No. 518 of 2018 with the Nagdi Police Station, Pune, for the alleged offences punishable under Sections 420, 406 read with 34 of the Indian Penal Code and consequently the proceeding, being R.C.C. No. 915 of 2020, pending before the learned JMFC, Pimpri, Pune. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4 Perused the papers. It appears that the petitioners and the respondent no.2 were partners of a firm namely M/s. Rushiraj Constructions ; that the petitioners and the respondent no.2 purchased a property at Erandawane, jointly from M/s. Rushiraj Constructions ; that the parties jointly procured a loan of rupees six crores from M/s. Bharat Co-operative Bank Limited, Dhankawadi Branch, Pune, and that, an EMI of Rs.11,41,038/- was to be paid every month to the said Bank. It appears that to procure the said loan, the property of the complainant and his wife i.e. the residential bungalow was mortgaged by the

petitioners. It appears that initially, the petitioners paid the EMI, however, later, as they failed to make the payment, a dispute arose between the partners, pursuant to which the respondent no.2 filed the aforesaid complaint / FIR as against the petitioners, alleging the aforesaid offences. Apart from the present C.R., another FIR was lodged by the respondent no.2 i.e. C.R. No.40 of 2018 with the Bhosari MIDC Police Station. The said C.R. i.e. C.R.No.40 of 2018 is the subject matter of Criminal Writ Petition No. 2383 of 2019. We have by a separate order, allowed the said Petition seeking quashing of the said C.R., and consequently the proceeding, since the parties have amicably settled the said dispute.

5 It is pertinent to note that the petitioners had also filed a Special Civil Suit, in the Court of the learned Civil Judge Senior Division, Pune, being Special Civil Suit No. 291 of 2021. In the said Civil Suit, the parties amicably settled their dispute and entered into an MOU dated 6th May, 2022. The said MOU is entered into between the complainant i.e. respondent no.2 and his wife on the one hand and the petitioner nos.1 and 2 on the other. Learned Counsel for the petitioners has tendered a xerox

copy of the said MOU entered into between the parties on 6th May, 2022. A xerox copy of the said MOU is taken on record. Certain terms and conditions have been stipulated in the said MOU. One of the terms is, that the respondent no.2 will give his no objection for quashing of the FIR registered vide C.R. No. 518 of 2018 with the Nagdi Police Station, Pune.

6 The respondent no.2 is present in person. When questioned, he reiterates what is stated in the MOU. Learned Counsel for the respondent no.2 has tendered a xerox copy of Aadhar card of the respondent no.2 which is verified from the original by the Assistant Superintendent, Civil and Criminal Court, Pimpri, Pune. The same is taken on record. The respondent no.2 has also filed his affidavit which is at page no.276 of the Petition. In the said affidavit, the respondent no.2 has stated that he has entered into an MOU with the petitioners, and that, he has no objection to quashing of the aforesaid Criminal Case.

7 Considering that the dispute between the parties has been amicably settled by them, the nature of dispute, the no objection

of the respondent no.2 for quashing of the FIR and the judicial pronouncements in this regard, there is no impediment in allowing the Petition.

8 Accordingly, the Petition is allowed and the FIR bearing C.R. No. 518 of 2018 registered with the Nigdi Police Station, Pune, is quashed and set aside and consequently, the proceeding pending before the learned JMFC, Pimpri, Pune, being R.C.C. No. 915 of 2020 is also quashed and set aside.

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

10 The petitioners to pay costs of Rs.50,000/- with the **Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060**, within four weeks'. Similarly, the respondent no.2 to also deposit costs of Rs.50,000/- with the **Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060**, within four weeks' from today.

11 To be listed on **23rd of November, 2022**, for recording compliance of the aforesaid order of deposit of costs.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.