

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2380 OF 2022

1. Vijay Sakharam Prabhu
2. Kalpesh Popatlal Rathod
3. Shabbir Rajak Siroha
4. Shankar Tukaramji Wade
5. Meena Uttam Phutankar
6. Ranjana Shridhar Dhage
7. Manish Jayantilal Rach
8. Shilpa Manish Ranch
9. Amol Prafulchandra Karpe

...Petitioners

Versus

1. The State of Maharashtra
2. Tanuja w/o. Balkrishna Gidithuri

...Respondents

Ms. Kavita Gandhi for the Petitioners.

Mr. Anand Mishra i/b Mr. Ashok Mundargi for the Respondent No.2.

Ms. M.H.Mhatre, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.
DATE : 18th OCTOBER, 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. Anand Mishra waives notice on behalf of the respondent No.2.
3. By this petition, the petitioners seek quashing of the FIR bearing C.R. No. 28 of 2021 registered with the Malabar Hill Police Station, Mumbai, for the alleged offence punishable under Sections 406, 420 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.
4. Perused the papers. According to the respondent No.2/complainant, she had booked three flats with the petitioners/developers of M/s Westin Developers Pvt.Ltd. She has stated in the said complaint/FIR that despite making the payment, the

possession of the flats were not handed over to her. According to the respondent No.2, her acquaintances i.e. Mrs. Leena K. Nanavati and Mr. Sanjay Dhruv, partners of M/s Mudra Investments had also booked flats in the said project and that they too were not handed over possession of their flats.

5. It appears that in the interregnum, the parties have amicably settled their dispute. On 12th October, 2022, we directed the learned APP to take instructions as to whether apart from the respondent No.2/original complainant, and Mrs. Leena Nanawati and Sanjay Dhruv, any other person had invested in the project of the complainant i.e. Westin Developers Private Limited. Accordingly, learned APP had sought time to verify the same. Today, learned APP on instructions, states that apart from the respondent No.2 and two others, i.e. Leena Nanavati and Sanjay Dhruv, no other persons had made any grievance as against the petitioners. She submits, on instructions, that not only the petitioners have settled with the complainant, but they have also settled their dispute with Leena

Nanavati and Sanjay Dhruv.

6. Learned Counsel for the respondent No.2 has filed an affidavit of the respondent No.2 dated 16th June, 2022, duly affirmed before the Notary. In the said affidavit, the respondent No.2 has stated that she has settled the dispute with the petitioners and that she has received the entire amount from the petitioners. She has also given her no objection for quashing of the said FIR. Learned Counsel for the respondent No.2 has tendered a xerox copy of the aadhar card of the respondent No.2 duly attested by her. The same is also taken on record.

7. Respondent No. 2 is present in Court. She is identified by her Counsel. On questioning, she re-iterates what is stated by her in her affidavit that she has no objection for quashing of the FIR bearing C.R. No. 28 of 2021 registered with the Malabar Hill Police Station, Mumbai.

8. Learned APP has also verified the original aadhar card.

9. Having regard to the aforesaid, the amicable settlement between the parties. The affidavit of the respondent No.2 and the statement made by the learned APP, on the instructions of the officer that the petitioners have amicably settled their dispute with the complainant, Leena Nanavati and Sanjay Dhruv, there is no impediment in allowing the petition.

10. The petition is accordingly allowed and the FIR bearing C.R. No. 28 of 2021 registered with the Malabar Hill Police Station, Mumbai and consequently, the proceeding arising therefrom, if any, are quashed and set-aside.

11. Petitioners to deposit a sum of Rs.50,000/- , with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, as costs. The said costs to be deposited within four weeks from today.

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

13. It is made clear that the aforesaid C.R. is quashed subject to the petitioners depositing costs.

14. Matter to be listed for recording compliance of the order of deposit on **23rd November, 2022.**

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.