

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

CRIMINAL WRIT PETITION NO.3690 OF 2021

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| 1. | Yashwant Anant Rajput | |
| 2. | Bharati Yashwant Rajput | |
| 3. | Jayshree Bala Rathod | |
| 4. | Susheela Santosh Rathod | |
| 5. | Ranjeetsinh M. Gohil | ...Petitioners |
| 6. | M/s. Sadguru Krupa Developers | Original Accused |
| | Versus | |
| 1. | State of Maharashtra | |
| 2. | Bharat Ramesh Rajput | ...Respondents |

Mr. Sanjeev Singh i/b Mr. Ritesh A. Singh, for the Petitioners.
Ms. M. H. Mhatre, A.P.P for the Respondent No.1– State.
Mr. S. C. Kanojia, for the Respondent No.2.

***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 service on behalf of the respondent No.1–State. Mr. Kanojia waives service on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing of the FIR bearing No. 908 of 2018, registered with the Dahisar Police Station, Mumbai, for the alleged offences punishable under Sections 420, 467, 468, 471, 120B 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. The petitioner Nos. 1 to 4 are the uncles and aunts of the respondent No.2/original complainant. It is alleged that the petitioner Nos. 1 to 4 sold the property in question to the petitioner Nos.5 and 6, despite the respondent No.2 having 4% undivided share in the said property. According to the respondent No.2/original complainant, the petitioner Nos.1 to 4 executed a Conveyance Deed of a property in favour of the petitioner Nos.5 and 6 despite him having 4% undivided share in the property. It appears that the respondent No.2 had also filed a Civil Suit in this Court i.e. Suit No.363 of 2016 on the Original Side with respect to the said Conveyance Deed. It appears that during the pendency of the said Suit, the parties amicably settled their dispute and entered into the

consent terms. This Court vide order dated 3rd March 2021 decreed the Suit in terms of the consent terms entered into between the parties. The said order is at Exhibit – 'B' on page 25 of the petition and the consent terms are on page 27 of the petition. The consent terms shows, that it was accepted that the respondent No.2/original complainant had 4% undivided right, title and interest in the suit property in question and as such the respondent No.2 was adequately compensated in respect of his share in the property. One of the condition stipulated in the consent terms is that the parties would undertake to withdraw all allegations, notices, complaints lodged against each other, with respect to the suit property. 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 tendered an affidavit of the respondent No.2 dated 11th June 2021, duly notarised before the Notary. A self attested xerox copy of the aadhar card of the respondent No. 2 is also annexed to the said affidavit. The said affidavit is taken on record. In the said affidavit, the respondent

No.2 has stated that he has amicably settled the dispute with the petitioners and that consent terms have been entered into between him and the petitioners in the Civil Suit. It is further stated that in view of the amicable settlement between them, he does not wish to proceed against the petitioners and as such has no objection to the quashing of the C.R/proceeding.

6. Respondent No. 2 is present in Court. On questioning, he re-iterates what is stated by him in his affidavit. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2. A perusal of the FIR and the allegations in the FIR do not show any of the ingredients of forgery.

7. Considering the nature of dispute, the relations between the parties, the amicable settlement between them, the consent terms entered into between the parties, the affidavit filed by the respondent No.2 and having regard to the judicial pronouncements of the Apex

Court in *Gian Singh vs. State of Punjab and Another*¹; *Narinder Singh and Others vs. State of Punjab and Another*², and *B. S. Joshi and Others vs. State of Haryana and Another*³, there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR bearing No. 908 of 2018, registered with the Dahisar Police Station, Mumbai, and consequently the proceeding arising therefrom, are quashed and set-aside.

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

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

3 (2003) 4 SCC 675