

Uday S. Jagtap

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

CRIMINAL WRIT PETITION NO. 873 OF 2021

Ashish Chordia .. Petitioner
Vs.
1. The State of Maharashtra
2. Sachin J. Joshi .. Respondents

**ALONG WITH
CRIMINAL WRIT PETITION NO. 2467 OF 2022**

1. Abhishek Chordia
2. Ujjwal Chordia .. Petitioners
Vs.
1. The State of Maharashtra
2. Sachin J. Joshi .. Respondents

.....
Mr. Niranjana Mundargi a/w Mr. Punit Damodar, Ms. Nikita Vardhan and Mr. Vishal Tiwari i/b Kanga and Company for the petitioners

Ms. S.D. Shinde, APP for the respondent – State

Mr. Amit Patil i/b Parinam Law Associates, for respondent no.2

.....

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATED : 15th SEPTEMBER, 2022.

P.C.

1. Heard learned Counsel for the parties.

2. At the outset, learned Counsel for the petitioners seeks leave to amend the prayer clause so as to correct the C.R. No. i.e. C.R. No. 496/2018. Leave granted. Amendment to be carried out forthwith, during the course of the day.

3. Rule. Rule is made returnable forthwith, with the consent of the parties the petitions are taken up for final disposal. Learned APP waives notice on behalf of the respondent no.1 – State. Mr. Patil, waives notice on behalf of the respondent no.2.

4. By these petitions, the petitioners seek quashing of the FIR, bearing C.R. No.496/2018 registered with the Powai Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420 r/w Section 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

5. Learned Counsel for the petitioners submits that pending the aforesaid petitions, the parties have amicably settled their dispute and that the petitioners have paid the entire dues to the State Bank of India and is to pay a Demand Draft dated 15th July 2022 in terms

of clause 8, to the respondent no.2 today.

6. Learned Counsel for the respondent no.2 has tendered Additional Affidavits, dated 5th September, 2022 of the respondent no.2, duly affirmed before the Notary. The said Additional Affidavits are taken on record.

7. Perused the papers. It appears that the respondent no.2 has filed a complaint/FIR as against the petitioners alleging offences punishable under Sections 420, 406 r/w 34 of the IPC. According to the respondent no.2, he had purchased a Ferrari Car from the petitioners' company i.e. M/s. Fiorano Motors LLP. It appears that certain disputes arose between the parties, pursuant to which the respondent no.2 filed the aforesaid complaint/FIR as against the petitioners. After investigation, police filed a charge-sheet as against the petitioners.

8. During the pendency of these petitions, the parties amicably settled their dispute. Learned Counsel for the respondent no.2 has tendered Additional Affidavits of the respondent no.2, dated 5th

September, 2022. In the said affidavits, the respondent no.3 has stated that an amount of Rs.1,94,53,310/- was paid by Petitioners' Company – M/s. Fiorano Motors LLP to the SBI. The details of payment made to SBI have been set out in paragraph 2 of the said additional affidavits. It appears from paragraph 3 of the said affidavits that SBI has issued a 'No Dues Certificate' *inter alia* confirming that there are no pending dues to the bank nor there is any outstanding liability and that all dues in respect of the Respondent no.2's account has been settled. The said 'No Dues Certificate' is annexed to the additional affidavits as Exh.'A'. The respondent no.2 has stated in the said affidavits, that he has no objection to the quashing of the C.R. and proceedings arising therefrom.

9. Pursuant to the amicable settlement, the learned Counsel for the petitioners has handed over a Demand Draft dated 15th July, 2022, bearing No. 491557 drawn on HDFC Bank, to the respondent no.2 for a sum of Rs.60,90,677/-, today. The respondent no.2, who is present in Court, acknowledges the receipt of the said Demand Draft. Learned Counsel for the respondent no.2

has tendered a xerox copy of the Aadhar Card of the respondent no.2, duly signed by the said respondent. The same is also taken on record.

10. Learned APP has verified the original Aadhar Card with the xerox copy of the same. Learned Counsel for the respondent no.2 has identified the respondent no.2. When questioned, respondent no.2 reiterates what is stated by him in the additional affidavits and that he has no objection to the quashing of the CR and proceeding consequent thereto.

11. Considering the nature of dispute, the amicable settlement between the parties and having regard to the judicial pronouncements of the Apex Court in the case *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing these petitions.

12. Accordingly, the petitions are allowed and C.R. No.496/2018 registered with the Powai Police Station, Mumbai for the alleged

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

offences punishable under Sections 406, 420 r/w Section 34 of the Indian Penal Code is quashed and set aside and consequently, the proceeding arising therefrom, is also quashed and set aside.

13. Rule is made absolute in the aforesaid terms. Petitions are disposed of accordingly.

14. The petitioners to deposit a sum of Rs.1,00,000/- (Rupees One lakh only) with the **Maharashtra Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060**, as costs and the respondent no.2 to pay Rs.1,00,000/- (Rupees One Lakh only) to the **Mumbai Police Welfare Fund, Account No.465010100008693, IFSC No. UTIB0000465**. The said costs to be deposited within two weeks from today.

15. Petitions be listed on **6th October, 2022** to report compliance of the said order of deposit.

16. All parties to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.