

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 750 OF 2021

Nirmal Sharad Mutha .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Anil Shitole, Advocate, for the Applicant

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

Mr. Raj Shah i/b. Mr. Vijaykumar B. Dighe, Advocate, for the
Respondent No. 2

CORAM : NITIN JAMDAR AND
N. R. BORKAR, JJ.

DATE : 19 AUGUST 2022

P. C.

. Heard learned counsel for the parties.

2. The Applicant by this Application is seeking the
following relief.

*“b. The FIR No. 157/2019 and further
proceeding arising out of the said FIR,
registered with Sinhagad Road Police Station,
Dist. Pune for the offences punishable U/s.
406, 420, 504 and 506 r/w 34 of the IPC be
quashed and set aside and the Applicant be
acquitted from the said offences.”*

3. The Learned Counsel for the Applicant states that the Respondent – Complainant has given consent for quashing the FIR. Joint request is made by the Learned Counsel for the Applicant and Respondent for quashing the FIR. The Learned Counsel states that the dispute that led to filing of the FIR was a commercial dispute and it is resolved on monetary terms. The Learned Counsel for the parties relied on the decision of the Supreme Court in the case of *Gian Singh Vs. State of Punjab* reported in (2012) 10 SCC 303.

4. The Respondent/Complainant filed the FIR alleging that in a transaction in respect of the land, the Complainant was cheated, as the complete consideration of the transaction due to the Complainant was not given by the Applicant. The Affidavit of the consent is filed by the Respondent/Complainant stating that the matter is settled between the parties and the entire amount has been received and Confirmation Deed has been signed on 28 January 2020 and indemnity is given on 21 May 2021.

5. The copies of the orders passed in the Application filed by the Applicant for Anticipatory Bail are on record. The Learned Single Judge has noted the factum of the settlement between the parties by Order dated 10 August 2021. In the light of this statement and the joint request made that parties will move for quashing the FIR, the Application for Anticipatory Bail was disposed of continuing interim protection for some time. When this

Application was filed, consent Affidavit was not filed by the Respondent and therefore, this Court continued protection granted by the Learned Single Judge. Thereafter, the matter appeared from time to time and adjourned at the request of the Respondent for filing Affidavit which is now filed. Having considered the facts and circumstances that the dispute was a commercial dispute which is resolved. Nothing is placed on record to oppose the joint prayer made. Case is made out for quashing the FIR by consent.

6. The Application is allowed in terms of prayer clause (b) in respect of the Applicant.

(N. R. BORKAR, J.)

(NITIN JAMDAR, J.)