

13-APL-956-2022.doc

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

CRIMINAL APPLICATION NO. 956 OF 2022

1. Ashok Ratanchand Shah

2. Aatish Ashok Shah

...Applicants

Versus

1. The State of Maharashtra

2. Sanjay Ujiyarilal Chaurasia

...Respondents

Mr. Dharmendra J. Damani for the Applicants

Mr. Y. M. Nakhwa, A.P.P for the Respondent No.1-State

Mr. Sanjay Ujiyarilal Chaurasia, the Respondent No. 2 is present in-person

CORAM: REVATI MOHITE DERE &

S. M. MODAK, II.

FRIDAY, 21st 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. The

respondent No.2 appears in-person and waives notice on behalf of himself.

3 By this application, preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR registered vide C.R. No. 304/2022 with the Kandivali (West) Police Station, Mumbai, as against the applicants for the alleged offences punishable under Sections 447, 448, 341, 342, 427 and 504 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the applicants and the respondent No. 2 have amicably settled their dispute.

4 Perused the papers. It appears that there was a property dispute between the parties and that the respondent No. 2 in his complaint has alleged that the applicant broke open the lock and entered the premises.

5 During the pendency of the aforesaid C.R., the parties amicably settled the dispute. It appears that the respondent No. 2

had also filed a civil suit in the City Civil Court at Dindoshi, Goregaon, Mumbai, being S.C. Suit No.780/2020 as against the applicants. The said suit was withdrawn by the respondent No.2 since the dispute was amicably settled by the parties. Accordingly, consent terms were filed in the said suit and the respondent No.2 (plaintiff No.6) withdrew the said suit unconditionally in terms of the consent terms. The said order passed by the City Civil Court is at Exhibit `B' at page 19 of the application.

6 A perusal of the consent terms which are at page 22 of the application shows that the parties have amicably settled their dispute and that the respondent No. 2 has agreed that he has no right, title, interest or share in the suit premises i.e. Office No.4, admeasuring 480 sq. ft. on the 2nd floor, Sona Shopping Centre, Trikumdas Road, Kandivali (West), Mumbai. Certain other terms and conditions have been stipulated in the consent terms, which both parties agree to perform.

7 Respondent No. 2 is present in Court. Learned counsel for the respondent No. 2 has tendered affidavit of the respondent No.2 dated 2nd August duly notarized before a Notary. To the said affidavit, is annexed a self attested xerox copy of the Aadhar card of the respondent No. 2. The said affidavit is taken on record. Learned counsel for the respondent No.2 identified him. Learned A.P.P has verified the original Aadhar card of the respondent No.2. The respondent No. 2 is also identified by the Investigating Officer, who is present in Court.

8 On being questioned, the respondent No.2 reiterates what is stated by him in his affidavit. He submits that he has no objection to the quashing of the FIR. He further states that as per the consent terms, in particular, para 3 clause (c), the applicants be directed to abide by their terms i.e. returning the goods and properties lying in the suit premises as set out in the said clause. The applicant No. 2 is present in Court. He undertakes to hand over all the articles to the respondent No. 2, today, during the

course of the day. Statement accepted. We are informed that till date, charge-sheet has not been filed in the said case.

9 Considering the aforesaid, the nature of dispute, the consent terms entered into between the parties, the affidavit of the respondent No. 2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the application.

10 The application is accordingly allowed. The FIR bearing C.R. No. 304/2022 registered with the Kandivali (West) Police Station, Mumbai, as against the applicant, is quashed and set-aside.

11 Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

12 The matter to be listed on **15.11.2022** under the caption
`for recording compliance of the consent terms’.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.