

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

CRIMINAL APPLICATION NO. 876 OF 2022

1. Rajiv Vedkumar Roy

2. Vijay Vedkumar Roy

...Applicants

VS.

1. The State of Maharashtra

2. Smt. Poonam Keshav Roy

...Respondents

Mr. Shashank Borade - Advocate for the Applicants

Mr. Yash Jain i/by Mr. J. P. Yagnik - APP for the Respondent-
State

Mr. Santosh Salekar - Advocate for Respondent No. 2

**CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.**

DATE : 29th SEPTEMBER, 2022

P. C. :-

1. Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the
consent of the parties and the application is taken up for
final disposal. Learned A.P.P waives notice on behalf of the
Respondent No.1-State. Mr. Santosh Salekar waives notice

on behalf of the Respondent No.2.

3 By this application, the Applicants seek quashing of the FIR bearing M.E.C.R. No. 11 of 2003 registered with the Colaba Police Station, Mumbai, for the alleged offences punishable under Sections 451, 454, 380 r/w 120(B) of the Indian Penal Code. Quashing is sought on the premise, that the Applicants and Respondent No. 2 have amicably settled their dispute.

4 Perused the papers. The Respondent No. 2 is the aunt of the Applicants. It appears that pursuant to the private complaint lodged by the Respondent No. 2, the learned J.M.F.C. passed an order under Section 156(3) of the Criminal Procedure Code, and the Colaba police registered M.E.C.R. No. 11 of 2003, alleging offences punishable under Sections 451, 454, 380 r/w 120(B) of the Indian Penal Code as against the Applicants. It appears that there was some dispute with respect to a flat, at Sagar Sangeet building, between the parties inter-se. A Civil suit was also filed with

respect to the said flat. It appears that in the said Civil suit, the parties amicably settled their dispute and filed consent terms entered into between them. The said consent terms are at Exh. 'C' at page no. 40. The said consent terms were filed in S.C. Suit No. 769 of 2011 in the Bombay City Civil Court, at Mumbai.

5 Pursuant to the consent terms, a consent decree was passed on 19/04/2022, by the City Civil Court. One of the terms of settlement was, that the Respondent No. 2, withdraws all allegations as against the Applicants and give her no objection, for quashing of the F.I.R./ Complaint/ Proceeding, initiated at her behest.

6 The Respondent No. 2 has filed her affidavit which is at page no. 47 of the application. The said affidavit dated 28/07/2022 is duly affirmed before the Notary. In the said affidavit, the Respondent No. 2 has stated that she has resolved and settled the dispute between the Applicants and that she has no objection for quashing of the

F.I.R./complaint registered at her behest. She also does not dispute the fact, that consent terms have been filed in the suit and that the said suit has been decreed in terms of the consent terms, on 19/04/2022. The Respondent No. 2 is present in person. When questioned, the Respondent No. 2 re-iterates what is stated by her, in her affidavit. Learned counsel for the Respondent No. 2 has tendered a self attested xerox copy of the Aadhar card of the Respondent No. 2. The same is taken on record. She is identified by her counsel and learned APP has verified the original Aadhar card of the Respondent No. 2.

7 It appears that after investigation, charge-sheet has been filed in the aforesaid C.R. and the case is presently pending before the learned Additional Chief Metropolitan Magistrate, 19th Court Esplanade, Mumbai, being CC No. 161/PW/2004.

8 Considering the nature of dispute, the amicable settlement between the parties and the consent terms

entered into between them, the consent decree passed by the City Civil Court, the affidavit of the Respondent No. 2 and the judicial pronouncement of the Apex Court in the case of ***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.

9 The application is accordingly allowed and the FIR bearing M.E.C.R. No. 11 of 2003 registered with the Colaba Police Station, Mumbai is quashed and set aside and consequently, the proceeding arising from the said C.R. which is pending before the Additional Chief Metropolitan Magistrate, 19th Court Esplanade, Mumbai, being CC No. 161/PW/2004, is also quashed and set-aside.

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

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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

[S. M. MODAK, J.]

[REVATI MOHITE DERE, J.]