

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

CRIMINAL WRIT PETITION NO.4078 OF 2021

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Mr. Nitin Anant Kadam & Ors.

....Petitioners

Versus

The State of Maharashtra & Anr.

....Respondents

Mr. Pranav Badekha i/b. Prashant B. Pawar for the Petitioners.

Ms Prajakta B. Shinde for Respondent No.2.

Mr. J.P. Yagnik, APP for Respondent-State.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 14th FEBRUARY, 2022.

P.C. :

1. Heard Mr.Badekha, learned counsel for the Petitioners, Ms.Shinde, learned counsel for Respondent No.2 and Mr.Yagnik, learned APP for the State.

2. The Petitioners have approached this Court for seeking quashment of FIR bearing C.R.No.66/2021 registered on 30.07.2021 with Lonavala City Police Station, Pune for the offence punishable u/s.143, 448, 504, 506 of the Indian Penal Code, 1860 against the Petitioners.

3. The few facts giving rise to the petition can be summarized as follows:-

Respondent No.2 is lodged the impugned FIR against the

petitioners, wherein it reveals that on 27.06.2021 Respondent No.2 went to the residence of Petitioner No.1 at Lonavala for discussion and selling of his property. In pursuance of discussion, the deal was finalized for Rs.2,31,00,000/- (Rupees Two Crores Thirty One Lakhs Only). It further reveals from the FIR that, Petitioner No.1 made part payment on 29.06.2021 by way of RTGS in the name of Respondent No.2 and his wife. Thereafter, on instructions of Respondent No.2, security personnel were deputed on the said property i.e. Misty Royal situated at Plot No.4, New Tungarli Lonavala, Pune by Petitioner No.1.

4. On 5.7.2021 at around 7.00 a.m. Petitioner No.1 received message from Respondent No.2 and informed him that he intends to cancel the deal due to the non-payment of consideration amount, but Petitioner No.1 has refused to pay the remaining amount of consideration to Respondent No.2. On the same day Respondent No.2 visited the said premises, to his surprise he found 5 unknown persons in the property. The said persons did not allow Respondent No.2 to enter into the property. They also abused and threatened him. At the instance of petitioners, the unknown persons were entered into the property and dispossess Respondent No.2 from the property. Hence, the FIR came to be registered.

5. During the pendency of investigation as well as present petition, the parties have settled their disputes amicably. Respondent No.2 has filed affidavit wherein he has affirmed that he has withdrawn all allegations made in the complaint against the petitioners. He has given his no objection for quashing the FIR.

6. At the time of hearing, Respondent No.2 was present in the Court. On a specific query put to Respondent No.2 he reiterates that on his own will and wish the affidavit-in-reply is filed. As such he is not raising any objection in quashing the FIR and proceedings against the Petitioners.

7. Learned counsel for the petitioners relied on the observation of the Apex Court in the case of *Gian Singh Vs. State of Punjab & Anr., reported in 2012(10) SCC 303*.

8. Considering the above facts, we are of the opinion that the learned counsel for the petitioners has made out a case for allowing the petition. Accordingly, the petition is allowed in terms of prayer clause (a) and disposed of accordingly.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)