

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

CRIMINAL WRIT PETITION NO.3435 OF 2022

1. Pawankumar Ratanlal Sharma
2. Satyendra Bhanvarlal Badola
3. Mangilal Liladhar Gurjar ...Petitioners

Versus

1. State of Maharashtra
2. Balaram Mankar ...Respondents

Mr. C. K. Tripathi, for the Petitioners.

Ms. M. H. Mhatre, A.P.P for the Respondent No.1– State.

Mr. Akshay Kapadia, for the Respondent No.2.

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

DATE : 26th 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 is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Mr. Kapadia waives notice on behalf of the respondent No.2.

Corrected vide order dated 18th October 2022

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, the petitioners seek quashing of the FIR/complaint bearing C.R. No.I - 253 of 2021, registered with the Manikpur Police Station, for the alleged offence punishable under Sections 420 r/w 34 of the Indian Penal Code.

4. Perused the papers. According to the respondent No.2/complainant, the petitioners and another co-accused had agreed to purchase land owned by them and their family members bearing Survey Nos.63, 157/2, 192/1 and 192/4 at village Diwanman, within the limits of Vasai-Virar Municipal Corporation, for a total consideration of Rs.22,89,27,000/- and accordingly an agreement to sell was executed. The respondent No.2 has alleged that the petitioners and the other co-accused got mutated their name in the 7/12 extract of the lands in question, without paying him full consideration and as such cheated him. It appears that post the lodging of the FIR, the parties amicably settled their dispute. The

quashing is sought by the petitioners on the premise that an amicable settlement is arrived at between the parties. According to the learned counsel for the petitioners, even otherwise, the dispute is predominantly of civil character and as such there is no impediment in quashing the aforesaid FIR/complaint. It appears that co-accused in the same case had sought quashing of the proceeding *qua* him, in view of the amicable settlement between him and the respondent No.2. The Division Bench of this Court (Coram: Nitin Jamdar & N.R. Borkar, JJ.) vide order dated 5th August 2022 allowed the said petition being Criminal Writ Petition No.1895 of 2022 and accordingly quashed the proceeding *qua* the said petitioner – Umashankar R. Paliwal.

5. Learned Counsel for the respondent No. 2 states that consent affidavit of the respondent No.2 dated 22nd August 2022, has been filed in the aforesaid petition and that the same is at page 39 of the petition. In our copy, the said consent affidavit has not been annexed to the petition and hence the learned counsel for the

respondent No.2 has tendered a xerox copy of the said consent affidavit filed by the respondent No.2. A perusal of the said consent affidavit filed by the respondent No.2 reveals that the respondent No.2 has amicably settled his dispute with the petitioners with respect to the subject matter and that he has no objection for quashing of the said proceeding, in view of the amicable settlement between the parties. Respondent No. 2 is present in Court. On questioning, he re-iterates what is stated by him in his consent affidavit. Learned counsel for the respondent No. 2 states that in the petition filed by the co-accused – Umashankar R. Paliwal i.e. in Criminal Writ Petition No.1895 of 2022, the petitioner therein and the respondent No.2 herein had annexed the consent terms entered into between the parties and that the same were annexed at Exhibit – 'A', page 168 of the said petition. He submits that as per the said consent terms, which were entered into between the co-accused – Umashankar Paliwal and the respondent No.2, the petitioner therein had agreed to pay a sum of Rs.3 crores, within 9 months, from the respondent No.2 handing over the possession of the said lands to the petitioner therein and recording

the name of the petitioner in the 7/12 extract in respect of the concerned lands. Learned Counsel for the respondent No.2 states that the same has also been spelt out in the affidavit filed by the respondent No.2 dated 22nd August 2022, in the aforesaid petition, whilst giving his no objection to the quashing of the proceeding *qua* the said petitioner - Umashankar Paliwal. 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. Learned Counsel for the respondent No.2 has identified the respondent No.2.

6. Learned APP has also verified the original aadhar card with respect to the identity of the respondent No.2.

7. Considering the nature of dispute, the amicable settlement between the parties and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab and Another*¹ and

¹ (2012) 10 SCC 303

*Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR/complaint bearing C.R. No.I - 253 of 2021, registered with the Manikpur Police Station, and all consequential proceedings arising therefrom, are quashed and set-aside.

9. The petitioners to deposit a sum of Rs.50,000/- and the respondent No.2 to also deposit a sum of Rs.50,000/- (i.e. total Rs.1,00,000/-) with the **Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060**, as costs. The said costs to be deposited within three weeks from today.

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

² (2014) 6 SCC 466

11. Stand over to 17th November 2022, for recording compliance of the said deposit of costs.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.