

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

CRIMINAL APPLICATION NO. 899 OF 2022

Y. V. Reddy

...Applicant

Versus

1. The State of Maharashtra

2. Mehrunissa A.N. Kamthani

...Respondents

Mr. Daljeet Singh Lall for the Applicant

Mr. J. P. Yagnik, A.P.P for the Respondent No.1-State

Mr. Rahul V. Shinde for the Respondent No. 2

PSI Mr. Dharmraj Redekar from Malad Police Station, is present

CORAM : REVATI MOHITE DERE &

S. M. MODAK, JJ.

FRIDAY, 30th 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. Shinde, waives notice on behalf of the respondent No.2.

3 By this application, the applicant seeks quashing of the FIR arising out of C.R. No. 148/2019 registered with the Malad Police Station, Mumbai, as against the applicant for the alleged offences punishable under Sections 420, 406, 120(B), 34 of the Indian Penal Code. Quashing is sought on the premise that the applicant and the respondent No. 2 have amicably settled their dispute.

4 It appears that the respondent No. 2 (original complainant), through her family friend-Mrs. Shagufta Sheikh, entered into an agreement to purchase a house at Gokuldham, Dindoshi, Malad (West), with the owner of Balaji Construction i.e. the applicant. Pursuant to the agreement, the respondent No. 2 paid Rs. 12,25,000/- to the applicant. It appears that the applicant did not give possession, nor did he return the said money, pursuant to which, the respondent No. 2 lodged the aforesaid complaint, which was registered vide C.R

No. 148 of 2019. It appears that charge-sheet has not been filed.

5 Learned A.P.P, on instructions, states that although Sections 120(B) and 34 of the IPC were alleged in the FIR, during the course of investigation, it is found that apart from the applicant, there is no other accused involved in the commission of the aforesaid offence and hence, Section 120(B) and 34 will not apply. It appears that the case is presently pending before the 67th Metropolitan Magistrates Court at Borivali being RCC No. 184 of 2019.

6 It appears that during the pendency of the aforesaid case, the parties amicably settled their dispute on the condition that the applicant pays an amount of Rs. 12,25,000/- to the respondent No. 2. Pursuant to the settlement, the applicant has paid the said amount to the respondent No. 2. Pursuant thereto, the respondent No. 2 has also agreed to give her no objection for the quashing of the said FIR/proceedings.

7 Learned counsel for the respondent No. 2 has tendered the consent terms entered into between the parties dated 28th September 2022, duly notarized, as well as an affidavit of the respondent No. 2 of the same date. Both, the consent terms as well as the affidavit are taken on record. In the said affidavit, the respondent No. 2 has stated that as she was not given the house, the applicant has returned the disputed amount i.e. Rs. 12,25,000/- by demand draft to her. She has further stated that she has no objection to the quashing of the said FIR.

8 Respondent No. 2 is present in Court. 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. Respondent No.2 is identified by her counsel. Learned A.P.P has verified the original Aadhar card of the respondent No.2. On being questioned, respondent No.2 reiterates what is stated by her in her affidavit.

9 Considering the nature of dispute, the amicable settlement arrived at between the parties, the consent terms entered into between them 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. 148/2019 registered with the Malad Police Station, Mumbai, as against the applicant and consequently the proceeding arising therefrom being RCC No. 184/2019, pending before the 67th Metropolitan Magistrates Court at Borivali, are quashed and set-aside.

11 The applicant to deposit a sum of Rs.10,000/-, with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693,**

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

IFSC No. UTIB0000465, towards cost. The said cost to be deposited within three weeks from today.

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

13 It is made clear that the aforesaid order is passed, subject to the applicant depositing the said amount with the Mumbai Police Welfare Fund.

14 Stand over to **17th November 2022**, for recording compliance of the payment of cost.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.