

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

CRIMINAL WRIT PETITION NO.3614 OF 2022

1. Suyog Sanjay Shenwai
 2. Shweta Suyog Shenwai ...Petitioners
- Versus
1. State of Maharashtra
 2. Yashwant Patil ...Respondents

Mr. Deepak Shukla a/w Mr. Mohd. Shahid, for the Petitioners.

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

Mr. Aniruddh More a/w Mr. Ravindra P. Belekar i/b Mr. Shivkumar Mishra, for the Respondent No.2.

PSI – Salim Shaikh, Nalasopara Police Station, is present.

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

DATE : 11th 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. Mr. More, waives notice on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing and setting aside of the FIR/complaint bearing C.R. No. 341 of 2022 (inadvertently mentioned as C.R. No.342 of 2022 in the affidavit of the respondent No.2) registered with the Nalasopara Police Station, for the alleged offences punishable under Sections 420, 406 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the dispute has been amicably settled between the petitioners and the respondent No.2.

4. Perused the papers. It is alleged that the petitioner No.1 and co-accused – Ashish Patil had promised a flat to the respondent No.2 - Yashwant Patil. It appears that pursuant thereto, the respondent No.2 transferred a sum of Rs.3,70,000/- odd to the petitioner Nos.1 and 2's accounts and another sum of Rs.17,00,000/- odd in the account of the co-accused – Ashish Patil. It appears that the said money was given by the respondent No.2/original complainant towards purchase of a flat. Since the respondent No.2 did not receive the flat nor the money, the aforesaid FIR/complaint

was lodged by the respondent No.2, as against the petitioners and co-accused – Ashish Patil. It is informed that till date, charge-sheet has not been filed in the said case.

5. It appears that in the interregnum, the parties i.e. the petitioners and the respondent No.2 settled their dispute amicably and that the petitioners paid a sum of Rs.3,70,000/- to the respondent No.2/original complainant i.e. Rs.1,70,000/- prior and a demand draft of Rs.2,00,000/- was handed over today. Respondent No.2 is present in Court. Both, the respondent No.2 and his counsel acknowledge the receipt of the said demand draft of Rs.2,00,000/- today. Learned counsel for the respondent No. 2 has also tendered an affidavit of the respondent No.2 dated 12th September 2022, duly notarized before the Notary. The same is taken on record. In the said affidavit, the respondent No.2 has stated that he has amicably settled the dispute only with the petitioners and that he has no objection to the quashing of the FIR/complaint, as he has received an amount of Rs.3,70,000/- from the petitioners which was given by him to the

petitioners. On questioning, he re-iterates what is stated by him in his affidavit. Learned counsel for the respondent No. 2 has tendered a xerox copy of the aadhar card of respondent No.2. The same is taken on record. It appears that the respondent No.2/original complainant had also paid co-accused – Ashish Patil Rs.17,00,000/- odd and that the said accused is still absconding. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

6. Considering the nature of dispute i.e. the transaction between the petitioners and the respondent No.2 and the amicable settlement between the parties and having regard to the judicial pronouncements, there is no impediment in allowing the petition.

7. The petition is accordingly allowed and the FIR/complaint bearing C.R. No. 341 of 2022 registered with the Nalasopara Police Station, is quashed and set-aside, only *qua* the petitioners. Needless to state, case to continue *qua* co-accused - Ashish Patil.

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

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.