

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

CRIMINAL APPLICATION NO.1110 OF 2011

1. M/s. Karm Yogi Property Developers Pvt. Ltd.
 2. Mangesh Tukaram Sawant
- ...Applicants
- Versus
1. State of Maharashtra
 2. The Senior Inspector of Police
 3. Madhuri Madhukar Kohe
- ...Respondents

Mr. Sachin Mhatre i/b Mhatre Law Associates, for the Applicants.

Mr. K. V. Saste, A.P.P for the Respondent Nos.1 and 2.

Mr. Abdul Kader Millwala, for the Respondent No.3.

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

DATE : 4th OCTOBER 2022

P.C. :

1. Vide order dated 27th November 2012, this Court after observing that arguable questions were raised granted Rule. By way of interim relief a direction was given that investigation shall proceed, however, charge-sheet shall not to be filed, without the prior permission of this Court.

2. Heard learned counsel for the parties.
3. By this application, the applicants seek quashing of the FIR bearing C.R. No. 339 of 2011 registered with the Borivali Police Station, Mumbai, for the alleged offences punishable under Sections 420 and 406 of the Indian Penal Code. Quashing is sought on the premise, that pending the aforesaid application, the parties have amicably settled their dispute.
4. Perused the papers. It appears that the respondent No.3 - Madhuri Madhukar Kohe had purchased a flat in 'Prathmesh Residency'. It appears that an agreement for sale dated 24th November 2003 was entered into between the parties and part consideration of Rs.3 lakhs was paid in respect of the said flat. Admittedly, the said agreement for sale was not registered. It appears that subsequently late Laxmibai Kohe and the respondent No.3 filed a suit, as against the applicant No.1, seeking declaration, injunction and recovery of possession under Sections 5 and 6 of the Specific Relief

Act. The parties amicably settled their dispute in Civil proceedings, in this Court and filed consent terms dated 18th July 2022 entered into between the parties. Pursuant to the said consent terms, the applicants paid a sum of Rs.51 lakhs (total) to the respondent No.3 and her husband, by way of full and final settlement.

5. Learned Counsel for the respondent No.3 has tendered an affidavit of the respondent No.3 – Madhuri Madhukar Kohe dated 4th October 2022, duly notarized before the Notary. To the said affidavit are annexed the consent terms entered into between the parties, a copy of the death certificate of Laxmibai Tukaram Kohe and copy of the orders passed by this Court from time to time. The said affidavit is taken on record and marked 'X' for identification. In the said affidavit, the respondent No.3 has given her no objection to the quashing of the proceedings initiated at her behest.

6. Respondent No. 3 is present in Court. On being questioned, she re-iterates what is stated by her in her affidavit. She states that she has received the entire amount from the applicants and that she has no objection to the quashing of the proceedings. Learned counsel for the respondent No. 3 has tendered a self attested xerox copy of the aadhar card of the respondent No. 3. The same is taken on record. Learned Counsel for the respondent No.3 has identified the respondent No.3 and the learned APP has also verified the original aadhar card of the respondent No.3.

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

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

8. The application is accordingly allowed and the FIR bearing C.R. No. 339 of 2011 registered with the Borivali Police Station, Mumbai and consequently the proceeding pending before the Sessions Court at Dindoshi, Borivali Division, Mumbai, are quashed and set-aside.

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

10. The applicants and the respondent No.3 to deposit a sum of Rs.25,000/- each, with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, as costs. The said costs to be deposited within three weeks from today.

11. The aforesaid order of quashing the proceedings is subject to deposit of costs, as stated aforesaid in paragraph 8 of this order.

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

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.