

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1323 OF 2021**

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|----|--------------------------|---|-------------|
| 1. | Ashok Narayan Bhosale |] | |
| 2. | Pratiksha Ashok Bhosale |] | |
| 3. | Pramod Narayan Bhosale |] | Petitioners |
| | Vs. | | |
| 1. | The State of Maharashtra |] | |
| 2. | Shahrukh Tajuddin Attar |] | Respondents |

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Mr. Satyam H. Nimbalkar a/w Abhishek Arote, for Applicants.

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

Mr. Rushikesh Kale, for Respondent No.2.

Mr. Zikurde P.SI and Mr. Mane, A.P.I, from Saswad Police Station, Rural.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 19th SEPTEMBER, 2022.

P.C.

1. Heard learned Counsel for the applicants, learned A.P.P appearing for respondent No.1- State and learned Counsel appearing for respondent No.2.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the application is taken up for final disposal. Learned A.P.P waives service on behalf of the respondent No.1– State. Mr. Kale, waives service on behalf of the respondent No.2.

3. By this application preferred under section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashing of the FIR, bearing C.R. No. 344 of 2021 registered with the Saswad Police Station, Pune, for the alleged offences punishable under Sections 406 and 420 of the Indian Penal Code (for short "I.P.C"). and sections 8 (a) (b) and 13 (3) of the Maharashtra Ownership Flats (Regulation of Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as "MOFA" for the sake of brevity). The aforesaid application has been filed primarily on the ground that the entire dispute has been settled between the applicants and respondent No.2 - original complainant and all other 14 investors. In this regard, learned Counsel relied upon the judgments of the Apex Court in the case of **Narinder Singh and others Vs. State of Punjab and**

another,¹ as well as on the judgment in the case of **Gian Singh Vs. State of Punjab**². He submits that the dispute is of a private nature and that there is no public element involved in the same.

4. Alongwith the application, affidavit of respondent No.2 has been annexed at 'Exhibit H' at page 434 of the application.

5. Learned Counsel appearing for the respondent No. 2 does not dispute the fact, that the parties have amicably settled their dispute. He also does not dispute the contents in the affidavit dated 30th October, 2021 duly signed by him and affirmed before the Assistant Registrar, High Court, which is at page No.434 of the application. The respondent No. 2 is present in the Court and when questioned, he reiterates the contents of the said Affidavit. 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 appearing for the respondent No.2 identifies the respondent No.2.

1 (2014) 6 SCC 466

2 (2012) 10 SCC 303

6. Perused the papers. It appears that the complainant had purchased a flat from the applicants by a registered document, however, since possession of the said flat was not handed over, a complaint was lodged as against the applicants and others alleging the aforesaid offences.

7. In the affidavit filed by the respondent No.2, it is stated that the dispute has been amicably resolved by him with the applicants and that he has received a total amount of Rs.6,00,000/- towards refund alongwith damages. It is also stated in the said affidavit by the respondent No.2 that a registered cancellation agreement, bearing No.6131 of 2021, dated 20th September, 2021 has been executed wherein his father-Tajjudin Attar has forfeited his claim over the said flat. In the affidavit, the respondent No.2 has given his no objection for quashing of the said proceeding initiated as against the accused at his instance.

8. Learned A.P.P states that the respondent No.2 and 14 flat purchasers have settled their dispute with the applicants. Learned A.P.P does not dispute the fact, that the applicants have settled

the entire dispute with all the flat purchasers including the respondent No.2. Accordingly, learned A.P.P has tendered a report of the P.S.I, Saswad Police Station, Pune dated 18th September, 2022. The said report is taken on record evidencing the same i.e settlement of the dispute by the applicants with the respondent No.2 and all the flat purchasers.

9. Considering that the respondent No.2 -complainant as well as all other flat purchasers have received the monies and have no grievance as against the applicants and also no objection to quashing of the F.I.R and also having regard to the judicial pronouncements of the Apex Court in this regard, there is no impediment in allowing the petition.

10. The petition is accordingly allowed and the FIR, bearing C.R. No. 344 of 2021 registered with the Saswad Police Station, Pune as against the applicants for the alleged offences publishable under sections 420 and 406 of the I.P.C and sections 8 (a) (b), 13 (3) of the MOFA Act is quashed and set aside. Consequent to the quashing of the C.R. No.344 of 2021, proceeding arising from

the said C.R. is also quashed and set aside.

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

12. The applicants to deposit Rs.50,000/- with the Maharashtra Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060 as costs. The said costs to be deposited within three weeks from today.

13. Matter to be listed on **10th October, 2022** under the caption "For Recording Compliance".

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

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]