

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

CRI.APPLICATION NO.1281 OF 2019

Piyush Anil Chawla
Occ:service, Aged 31 years,
R/at B 301, Ahimsa Terrace
Chincholi Bunder Road,
Malad(W), Mumbai 400 064 ...Applicant.
V/s

1. The State of Maharashtra
Through Sr. Inspector of Police,
Wadala TT Police Station, Mumbai

2.Lodha Group Ltd.
Through Sales Manager,
2, Lodha Excelus, Apolla Mill
Compound, NM Joshi Marg,
Mahalaxmi, Mumbai. ...Respondents.

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Mr Yatin R. Shah a/w Ms Shweta Singh and Divya
Tekwani, for the Applicant.

Mrs P.P. Shinde, APP for the State.

Mr Nitin Waghmare, for Respondent no.2.

ASI A.T. Kadam, Wadala T.T.Police Station is present.
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**CORAM: REVATI MOHITE DERE &
R.N.LADDHA.**

DATE : 21 NOVEMBER 2022.

Order (Per R.N.Laddha,J.)

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable immediately, at the request of and with the consent of the learned Counsel for the parties. Learned Counsel for the Respondents waived service.

3. This is an Applicaiton for quashing FIR No.363 of 2013 registered at the Wadala T.T.Police Station, Mumbai, alleging commission of offences punishable under Sections 420, 465, 467, 468, 471, 408, 409, 120-B r/w Section 34 of the Indian Penal Code.

4. When this Criminal Application for quashing the impugned FIR was placed before us, it has been stated by both the learned Counsel for the Applicant and Respondent No.2-original Complainant, that the dispute, which was purely because of civil transactions, has been amicably settled. They submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. They submitted that Respondent no.2, in this Applicaiton, has also filed the Consent Affidavit. They submitted that Mr Avinash Domnic Pereira has been duly authorised by the Respondent No.2 to represent it and file the affidavit of compromise on its behalf. They submitted that

the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in *Gian Singh Vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. Vs. State of Punjab & Anr.*²

5. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

6. It reveals from the record that Mr Avinash Pereira, employed and authorised representative of Respondent No.2, has filed Consent Affidavit dated 19.08.2021, duly affirmed before the Notary and a copy of the Aadhar Card duly attested by him. Mr Pereira is present before the Court and stated that he has no objection if the impugned FIR against the Applicant is quashed, given the settlement between the parties. On questioning, he reiterates what is stated by him in the affidavit. Respondent No.2 has been identified by his Counsel. Learned APP has verified the original Aadhar Card of Respondent No.2.

7. We have examined the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in the case of *Gian Singh and Narinder Singh (supra)*. Based on the material on record, it is apparent that the dispute between the parties has a predominantly civil flavour. Under the circumstances, the accusation becomes a flawed one. In light of the mutual

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

settlement, allowing criminal prosecution to continue would be an abuse of the process of the Court. No fruitful purpose would be achieved due to a settlement between the parties. In order to secure ends of justice, it would be appropriate in the given case that the impugned FIR and the criminal case arising out of the same are put to an end. The affidavit filed on behalf of Respondent No.2 supports the prayer in the Application. Having said so, and on the facts noted above, the impugned FIR bearing C.R.No.363 of 2013, along with Criminal Case No.361/PW/2015 pending before the learned Metropolitan Magistrate, 5th Court, Dadar, Mumbai, needs to be quashed qua the Applicant.

8. Considering these facts and circumstances, we see no difficulty in quashing the impugned FIR *qua* the Applicant. The Criminal Application No.1281 of 2019, therefore, is made absolute in terms of prayer clause (a), which reads thus;

(a) This Hon'ble Court be pleased to quash the FIR being C.R.No.363/2013 dated 02-12-2013 u/s 465, 467, 468, 471, 408, 409, 420, 120B, 34 of the Indian Penal Code filed with the Respondent No.1 by the Respondent No.2 against the Petitioner.

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

10. Learned Counsel for Respondent No.2 to file his Vakalatnama, if not filed, within two weeks of the uploading of this order.

(R.N.LADDHA,J.)

(REVATI MOHITE DERE)