

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

***CRIMINAL WRIT PETITION NO.4004 OF 2022***

Suketu Bipinchandra Daftari  
Age 48 years, Occ: Business  
R/at B 42, 4<sup>th</sup> floor, Maimoon  
Apartment, Prabhadevi, Mumbai. ...Petitioner.

V/s

1. Shri Krishna Murarai Ishwar  
Age 37, Occ:Business,  
Partner of Orion Coproraiton  
R/at:13, at A-50, Treasure  
Fantasy, Cat road, Indore,  
Madhya Pradesh 452 001.  
2. The State of Maharashtra  
Through its Investigating Officer  
EOW, Thane, Office of the  
Commissioner of Police, near  
Kalwa Bridge, Thane 400 601 ...Respondents.

***WITH***

***WRIT PETITION (STAMP) NO.19088 OF 2022***

Shri Shivakant R Tiwari  
Age 48 yrs, Occ: business  
R/at 309, Alishan Residency  
Wayle Nagar, Kalyan (W)  
421 301. .... Petitioner.

V/s.

1.Shri Krishna Murarai Ishwar  
Age 37, Occ:Business,  
Partner of Orion Coproraiton  
R/at:13, at A-50, Treasure  
Fantasy, Cat road, Indore,  
Madhya Pradesh 452 001.

2. The State of Maharashtra  
Through its Investigating Officer  
EOW, Thane, Office of the  
Commissioner of Police, near  
Kalwa Bridge, Thane 400 601 ...Respondents.

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Mr Sandesh Patil i/b Ms Anusha Amin, for the Petitioner  
in WP No.4004/2022

Mr. Sandesh Patil i/b Ms Divya Pawar for Petitioner in  
WP(Stamp) No.19088/2022.

Mr.K.V. Saste, APP for the State.

Mr Mandar Divekar for Respondent No.1.

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**CORAM: REVATI MOHITE DERE &  
R.N.LADDHA.**

**DATE : 23 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. These writ petitions for quashing FIR No.I-704 of 2021 registered at the Narpoli Police Station, Bhivandi, Thane, alleging commission of offences punishable under Sections 408, 409, 420, 477-A of the Indian Penal Code.

4. When these writ petitions for quashing the impugned FIR were placed before us, it has been stated by both the learned Counsel for the Petitioners and Respondent No.1-original Complainant, that the dispute, which was purely because of civil transactions, has been amicably settled. They, in unison, submitted that the Consent Terms have been arrived between the parties and are placed on record before this Court. It is submitted that as per the Consent Terms, the first Respondent had received the agreed amount. They submitted that in the Consent Terms, it was mutually decided by the parties that the present impugned FIR be quashed. 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 both these petitions, has also filed the Consent Affidavit. 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.*<sup>1</sup> and *Narinder Singh & Ors. Vs. State of Punjab & Anr.*<sup>2</sup>

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1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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

6. It reveals from the record that Respondent No.2 has filed the Consent Affidavits dated 23.11.2022, duly affirmed before the Assistant Registrar, High Court, Appellate Side and a copy of the Aadhar Card duly attested by him. Respondent No.2 is present before the Court and stated that he has no objection if the impugned FIR against the Petitioners is quashed, given the settlement between the parties. On questioning, he reiterates what is stated by him in the affidavits. 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. In terms of the memorandum of settlement, a copy of which is annexed to these petitions, and the terms themselves, we are satisfied that the matters were purely civil in nature. There appears to be no element of criminality. Under the circumstances, the accusation becomes a flawed one. In light of the mutual settlement, allowing criminal prosecution to continue would be an abuse of the process of the Court. It will

also disrupt the compromise and interfere with the restoration of peace.

8. Considering these facts and circumstances, we see no difficulty in quashing the impugned FIR *qua* the Petitioners. The criminal writ petitions, therefore, are made absolute in terms of prayer clause (a) which reads thus;

*a. By an appropriate Writ/Direction/Order of this Hon'ble Court, the FIR bearing its no.I 704/2021 dated 12/11/2021 registered with Narpoli Police Station, Bhiwandi at Thane filed against the petitioner for allegedly having committed the offenses punishable under Sections 408, 409, 420, 477(A) of the Indian Penal Code, (which is annexed to the present petition at **Exh.A**) be quashed and set aside.*

9. The Rule is made absolute in above terms. The Application is disposed of.

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

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

(R.N.LADDHA,J.)

(REVATI MOHITE DERE)