

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4124 OF 2022

1. Prakash Jamnadas Chandan
 2. Raj Prakash Chandan
 3. Janak Jamnadas Chandan
- ...Petitioners

Versus

1. The State of Maharashtra
 2. Vaibhav Prashant Javeri
- ...Respondents

Ms. Racheeta Dhuru a/w Mr. P.Y.Shankar for the Petitioners.

Mr. K.V. Saste, A.P.P for the Respondent-State.

Mrs. Ashneel Saluja i/b Ms. Bhakti D. Kansara for the respondent No.2.

CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 20th DECEMBER, 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. Mrs. Ashneel Saluja waives notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the FIR bearing C.R. No. 709 of 2021 registered with the D.B.Marg Police Station, Mumbai, for the alleged offences punishable under Sections 409, 406, 420 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner No.1 is an IATA registered agent and operating his business under the style and name of M/s. Orient Tourism Private Limited. The petitioner Nos.1 and 3 are the real brothers and petitioner No.2 is a student and son of petitioner No.1 and does not appear to be concerned with the said business. According to the respondent No.2, he had booked airline tickets, both, international and domestic, for clients through the petitioner's agency. The amount paid for the said tickets is around Rs.9,69,000/-. Due to COVID, the bookings got cancelled. As the money was not refunded by the petitioners, the respondent No.2 lodged the aforesaid complaint as against the petitioners alleging the

aforesaid offences. After investigation, chargesheet was filed in the said case and the case is presently pending before the learned Metropolitan Magistrate, 18th Court, Girgaon, Mumbai, being C.C.No. 425/PW/2022.

5. During the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same. The petitioners refunded the entire amount of Rs.9,76,000/- due from them to the respondent No.2. We are informed that the said amount was paid by the respondent No.2 for booking from his own pocket and that he has not taken any amount from his clients towards the said booking of airlines tickets.

6. Learned Counsel for the respondent No.2 submits that the respondent No.2 has filed his affidavit dated 11th October, 2022, duly notarized before the Notary. In the said affidavit, the respondent No.2 has stated that he has received the entire amount of Rs.9,76,000/- from the petitioners. The details of the payment are set out in paragraph 2 of the said affidavit. The respondent No.2 has further

stated that he has no objection for quashing of the FIR/proceeding, having received the amount due from the petitioners. Today, learned Counsel for the respondent No.2 has tendered an additional affidavit of the respondent No.2 dated 20th December, 2022, duly notarized before the Notary.

7. The respondent No.2 is present in person. On questioning, he re-iterates what is stated by him in his affidavit i.e. he has no grievance as against the petitioners. The respondent No.2 has been identified by his Counsel. The original Aadhar Card of the respondent No.2 is verified by the learned APP.

8. Considering the nature of dispute which appears to be civil in nature, the amicable settlement between the parties, the affidavits of the respondent No.2 and the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², , there is no impediment in allowing the petition.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

9. The petition is accordingly allowed and the FIR bearing C.R. No. 709 of 2021 registered with the D.B.Marg Police Station, Mumbai and consequently, the proceeding pending before the learned Metropolitan Magistrate, 18th Court, Girgaon, Mumbai, being R.C.C. No. 425/PW/2022, are quashed and set-aside.

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

11. Learned Counsel for the respondent No.2 to file her Vakalatnama, if not filed, on behalf of the said respondent, in the Registry, within two weeks of uploading of this order.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.