

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

CRIMINAL WRIT PETITION NO.5044 OF 2019

1. Sadashiv Laxman Shenoy
 2. Shashikala Mohan Kamat
 3. Leela Narayan Balgi
 4. Usha Laxman Shenoy
 5. Prafulla Laxman Shenoy
 6. Vivek Laxman Shenoy ...Petitioners
- Versus
1. State of Maharashtra
 2. Ambrish Singh Ganga Singh Thakur ...Respondents

Mr. Omprakash P. Dubey, for the Petitioners.

Mr. J. P. Yagnik, A.P.P for the Respondent No.1– State.

Mr. Nagesh Mali, for the Respondent No.2.

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

DATE : 4th OCTOBER 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. Mr. Mali, waives

notice on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing of the F.I.R, being M.E.C.R. No. 07 of 2013 registered with the Nirmal Nagar Police Station, Mumbai, for the alleged offence punishable under Sections 387, 465, 467, 468, 420, 506 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. It appears that there was a money transaction between the petitioners and the respondent No.2 and that pursuant to the said transaction, the respondent No.2 had purchased shops and paid the petitioners Rs.70 lakhs. It appears that thereafter the cheques given by the petitioners were dishonoured, pursuant to which the respondent No.2 lodged a private complaint, as against the petitioners and the learned Magistrate passed an order under Section 156(3) of the Code of Criminal Procedure, pursuant to which the aforesaid M.E.C.R. was registered. After investigation, charge-sheet

was filed in the said case and presently the case is pending before the learned Metropolitan Magistrate, 32nd Court, Bandra, Mumbai. In the interregnum, the parties amicably settled their dispute.

5. Learned Counsel for the respondent No. 2 has tendered an affidavit of the respondent No.2 dated 2nd August 2022 duly affirmed before the notary. In the said affidavit, the respondent No.2 has stated that he has amicably settled the dispute with the petitioners and has filed consent terms. Respondent No.2 in the said affidavit has given his no objection to the quashing of the proceeding initiated at his behest. Pursuant to the consent terms, he states that he has received the entire amount and as such has no grievance against the petitioners. Respondent No. 2 is present in Court. On questioning, he re-iterates what is stated by him in his 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 for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original

aadhar card of the respondent No.2.

6. Considering the nature of dispute, the amicable settlement between the parties, the consent terms entered 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 petition.

7. The petition is accordingly allowed and the F.I.R, being M.E.C.R. No. 07 of 2013 registered with the Nirmal Nagar Police Station, Mumbai, and consequently the proceeding pending before the learned Metropolitan Magistrate, 32nd Court, Bandra, Mumbai, are quashed and set-aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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

9. The petitioners to deposit a sum of Rs.10,000/- each and the respondent No.2 to deposit a sum of Rs.25,000/- 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.

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

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.