

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO.1230 OF 2022**

|                        |   |                   |
|------------------------|---|-------------------|
| 1. Shrivatsa Poddar    | ] |                   |
| 2. Radha Ballav Poddar | ] |                   |
| 3. Ritu Poddar         | ] |                   |
| 4. Shivesh Poddar      | ] | <b>Applicants</b> |

**Vs.**

|                             |   |                    |
|-----------------------------|---|--------------------|
| 1. The State of Maharashtra | ] |                    |
| 2. Aaquib Arshad Shaikh     | ] | <b>Respondents</b> |

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Mr. Sharad Rai, for Applicants.

Mr. K.V. Saste, A.P.P, for Respondent No.1 -State.

Mr. Prem Tanna, for Respondent No.2.

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

**DATE : 13th 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 the application is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1- State and Mr. Tanna, learned Counsel waives notice on behalf of the respondent No.2.

3. By this application, preferred under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the applicants seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.64 of 2022 with the Rabodi Police Station, District Thane, for the alleged offences punishable under sections 420, 406 r/w 34 of the Indian Penal Code (for short "I.P.C"). Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Learned Counsel appearing for the applicants submits that the parties have amicably settled their dispute and as such, the respondent No.2 has no objection if the F.I.R is quashed and set aside, in view of the amicable settlement between the parties.

5. Perused the papers. All the applicants are *inter se* related. It appears that applicants No.2 and 3 are running a Firm by the name M/s. Poddar Investment and Trading. According to the respondent No.2 - Aaquib Arshad Shaikh, one Varun Dinesh Shetty, his college friend, recommended that he contact the petitioner No.1-Shrivatsa Poddar. Pursuant thereto, the respondent No.2 called petitioner No.1 who informed him that his family runs an investment and trading firm. The respondent No.2 has alleged that the petitioner No.1 informed him that if he would deposit money with the firm, he would get interest @ 3% every week. Pursuant thereto, the respondent No.2 transferred a sum of Rs.4,00,000/- on different dates in the account of the petitioner No.1. According to the respondent No.2, he was getting interest regularly till November, 2020. However,

thereafter, the petitioner No.1 started making excuses and did not pay the interest. Despite assuring payments, payments were not made. According to the respondent No.2, between January, 2021 and March, 2021, petitioner No.2 returned a sum of Rs.1,45,000/-, however, failed to pay the balance amount of Rs.2,55,000/-. Pursuant thereto, the respondent No.2 lodged the aforesaid F.I.R. In the said F.I.R, the respondent No.2 has alleged that even his friend - Varun Shetty was cheated by the petitioners for a sum of Rs.45,000/-. Thus, the allegations in the F.I.R are, that the petitioners stopped paying interest and misappropriated a sum of Rs.3,00,000/-. Admittedly, charge-sheet has not been filed in the said case till date.

6. During the pendency of the investigation of the said C.R, the parties have amicably settled their dispute. The petitioners have paid, both i.e respondent No.2 (original complainant) and Mr. Varun Shetty, the amount as invested by them. The respondent No.2 has filed his consent affidavit dated 15th November, 2022 duly notarized before the Notary, which is

annexed at page No.21 of the application. In the said affidavit, the Respondent No.2 has stated that he has received the amount deposited/invested by him and that he has no objection for quashing of the said C.R. We are informed that even Varun Shetty has filed his consent affidavit dated 6th December, 2022 duly notarized before the Notary, at Page No.27 of the petition. However, on perusing the petition, we do not find the said affidavit in the petition. Hence, we have taken a photo copy of the said affidavit from the learned Counsel appearing for the respondent No.2. In the said affidavit, Mr. Varun Shetty has given his no objection to quashing of the F.I.R, as he has received the amount from the petitioners.

7. Both the respondent No.2 as well as Mr. Varun Shetty are present in the Court. They reiterate what is stated by them in their affidavits. Learned Counsel for the respondent No.2 has identified the respondent No.2 and Mr. Varun Shetty. The concerned Police Officer present in the Court has also identified both of them. Learned Counsel appearing for the respondent

No.2 has tendered photo copies of the Aadhar Cards of the respondent No.2 and Mr. Varun Shetty, duly attested by them. The same are taken on record and the original Aadhar Cards are verified by the learned A.P.P.

8. Considering the nature of the dispute, the amicable settlement between the parties, the consent affidavit of the respondent No.2 and Varun Shetty and having regard to the judicial pronouncements of the Apex Court in **Gian Singh Vs. State of Punjab and another**<sup>1</sup> and **Narinder Singh and others Vs. State of Punjab and another**,<sup>2</sup>, there is no impediment in allowing the Application.

9. The application is accordingly allowed and C.R. No.64 of 2022 registered with the Rabodi Police Station, District Thane, for the alleged offences punishable under sections 420, 406 r/w 34 of the Indian Penal Code is quashed and set aside.

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1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

10. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly. The petitioners to deposit costs Rs.10,000/- with the **Central Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060.** Respondent No.2 and Varun Shetty also to deposit costs of Rs.2,000/- each with the **Central Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060.** The said costs to be deposited within four weeks from today.

11. Matter be listed on **12th January, 2023**, for recording compliance of the order, directing deposit of costs.

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

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