

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1686 OF 2022

Sanjay Suganchand Kasliwal
age 52 years, Occu. Business,
R/o Apana Bazar, Shop Nos.215, 216,
Near S.F.S. School, Jalna Road,
Aurangabad

... APPLICANT

VERSUS

- 1) The State of Maharashtra
through Jawahar Nagar Police Station,
Aurangabad
(Copy of respondent No.1 to be
served on office of Public Prosecutor,
High Court of Bombay,
Bench at Aurangabad)
- 2) Pratibha Ratnadeep Khobragade (Bhide),
Age 38 years, Occu. Household,
R/o Solanke Lay-out, Ward No.13,
Fule Nagar, Buldhana – 443 001. **... RESPONDENTS**

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Mr. A.P. Bhandari, Advocate for applicant
Mr. P.G. Borade, A.P.P. for respondent No.1
Mr. V.S. Salve, Advocate for respondent No.2.
Mr. A.B. Kale, Advocate for Notary
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 4th JANUARY, 2023

ORAL JUDGMENT (PER SMT. ANUJA PRABHUDESSAI, J.) :

With consent, heard finally at the stage of admission.

2. The applicant had placed on record a document styled as "Memorandum of Understanding/ Affidavit" executed before the Notary on 15/11/2017. Considering the discrepancies in the said affidavit, this Court, by order dated 28/9/2022, had issued notice to the Notary and sought his explanation. Mr. A.B. Kale, learned counsel has tendered an affidavit of the Notary, wherein the Notary has tendered his unconditional apology. The apology is accepted. The Notary is directed to be cautious in future.

3. This is an application filed under Section 482 of the Code of Criminal Procedure for quashing the First Information Report No.I-269/2017, dated 28/8/2017, registered with Jawahar Nagar Police Station, Aurangabad for the offence punishable under Section 420 of the Indian Penal Code and Sections 3, 4, 10 and 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 and consequent charge sheet and criminal proceedings being R.C.C. No.2250/2018, pending on the file of learned XIII Judicial Magistrate, First Class, Aurabgabad.

4. The aforesaid crime was registered pursuant to the First Information Report lodged by the respondent No.2

Pratibha Khobragade (Bhide). The First Information Report indicates that the husband of the respondent No.2 had booked a Row House in Kasliwal Niwara, Aurangabad, a project, advertised by the applicant herein, for a consideration of Rs.71 Lakhs. It is stated that, an earnest money of Rs.5 Lakhs was paid and the balance amount was to be paid at a later stage. The respondent No.2 alleged that, the applicant neither completed the construction nor refunded the earnest money. The respondent No.2, therefore, lodged the first Information Report, alleging that the applicant herein has cheated her.

5. It is stated that, during the pendency of this application, the parties have entered into a settlement. The respondent No.2 has filed her affidavit, wherein it is affirmed that, during the pendency of the application for anticipatory bail, the applicant has paid amount of Rs.5 Lakhs by Demand Draft No.012936, dated 10/11/2017 and an amount of Rs.95,178/- by Demand Draft No.012943, dated 13/11/2017. The respondent No.2 has stated that, as she has received the entire amount from the applicant, she does not wish to pursue the matter and that she has no objection for quashing the proceedings.

6. The learned counsel for respondent No.2, on instructions, states that, the contents of the affidavit are true and correct. The dispute is of private nature. The parties have amicably settled the dispute. Since the settlement is genuine and acceptable to the parties, we find it appropriate to quash the proceedings by invoking jurisdiction under Section 482 of the Code of Criminal Procedure. Hence, the Criminal Application is allowed in terms of prayer clause (B). First Information Report No.I-269/2017, dated 28/8/2017, registered with Jawahar Nagar Police Station, Aurangabad for the offence punishable under Section 420 of the Indian Penal Code and Sections 3, 4, 10 and 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 and the consequent charge sheet and criminal proceedings being R.C.C. No.2250/2018, pending on the file of learned XIII Judicial Magistrate, First Class, Aurabgabad are hereby quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-