

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

CRIMINAL WRIT PETITION NO. 97 OF 2022

1. Hari Bhachubhai Mujat
Age 40 years
2. Bachubhai Dharmashi Arethiya
Age 55 years
3. Mukesh Patel
Age 42 years

All adults having office at
Office No.225, 2nd floor, B Splash,
Plot No.78 & 79, Sector 17, Vashi,
Navi Mumbai, Maharashtra

... Petitioners

Versus

1. The State of Maharashtra
Through the Inspector In-charge
Nerul Police Station, Navi Mumbai
Thane.
2. Dulal Chandra Saha
A/1, Om Shanti CHS,
Plot No.10/9, Near Apeejay School,
Sector 15, Nerul East,
Navi Mumbai 400706.

... Respondents

Mr Arun Panicker a/w. Rajeev Sharma i/b. Manju Pillai for
Petitioner.

Mr J P Yagnik, APP for the State.

Mr Avinash Fatangare a/w. Sandesh Kate i/b Mahendra Shingade for Respondent No.2.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 05 JULY 2023

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The Petitioners have filed this Criminal Writ Petition under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR No. 427 of 2021 dated 18 November 2021 registered at Nerul Police Station, Navi Mumbai, for the offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code, and the proceedings arising therefrom. The petitioners seek to quash the FIR on the ground that they have amicably settled their dispute with Respondent No.2.

4. The learned counsel for the Petitioners and Respondent

No.2, in unison, submitted that dispute arose from a misunderstanding in a property transaction. And continuing the prosecution would be pointless since they had reached a settlement. They stated that the dispute had been resolved amicably, and consent terms dated 1st December 2021 to that effect are also filed on record. They submitted that the dispute was purely civil and falls under the purview of the law laid down by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

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

6. The record shows that Respondent No.2 has filed a consent affidavit, and he is present in the Court and states that he has no objection to quash the impugned FIR against the Petitioners since all his claims have been settled. When questioned, he reiterated the statement from his affidavit and was identified by his counsel.

7. We have examined present case in light of the law laid down by the Hon'ble Supreme Court in the case of *Gian*

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

Singh and Narinder Singh (supra). Considering the fact that dispute between the parties has been resolved, there is no need to continue with the criminal prosecution. In order to ensure that justice is served, it would be appropriate to quash the impugned FIR. The consent affidavit submitted by Respondents No. 2 supports the prayer to quash the FIR. As such, and based on the facts mentioned above, the impugned FIR No. 427 of 2021, registered with Nerul Police Station, Navi Mumbai against the Petitioners needs to be quashed and set aside. Accordingly, the impugned FIR No. 427/2021 dated 18 November 2021 for the offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code and the proceedings arising therefrom are quashed and set aside, subject to condition that Petitioners and Respondent No.2 to deposit costs of Rs.50,000/- each with High Court Legal Services Authority within three weeks of this order being uploaded.

8. Rule is made absolute in these terms, and this Petition is disposed of subject to payment of costs as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.