

Uday Indukumar Jasani ...Applicant
Versus
1. The State of Maharashtra
2. Amarlal Nagpal ...Respondents

Police Constable – S. C. Bhosale, Khar Police Station, Mumbai, is present.

DATE : 1st FEBRUARY 2023

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 APP waives notice on behalf of the respondent No.1 – State. Ms. Chaddha,

waives notice on behalf of the respondent No.2.

3. By this application preferred under Section 482 of the Criminal Procedure Code, the applicant seeks quashing of the FIR bearing C.R. No. 575 of 2021 registered with the Khar Police Station, Mumbai, for the alleged offences punishable under Sections 420, 504 and 506 of the Indian Penal Code and consequently, the proceeding pending before the learned Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai being C.C. No.959/PW/2022. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent No.2, he knew the applicant for several years and that during the Covid-19 pandemic, the applicant approached him for financial help to complete one of his real estate projects and as such for the said purpose procured a loan of Rs.1,15,00,000/- from the respondent No.2. According to the respondent No.2, the applicant had given undated cheques to the tune of Rs.1,65,00,000/- to show him his

bonafides and had additionally allotted two flats in a residential project valued at Rs.2,50,00,000/-. However, when he deposited the cheques given to him as security, the said cheques were dishonoured. Since the said amount was not paid by the applicant, the respondent No.2 lodged the aforesaid FIR, as against the applicant, alleging the aforesaid offences.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and entered into consent terms. The said consent terms are at Exhibit – 'C', page 22 of the application. As per the consent terms, the applicant was to pay the respondent No.2 a sum of Rs.1,77,50,000/- as per the schedule mentioned in the paragraph 5 in four installments. We are informed that the said amount has been paid by the applicant to the respondent No.2. It appears that the applicant has also paid an amount of Rs.1 lakh by way of interest, apart from the amounts mentioned in paragraph 5 of the Consent Terms, for delayed payment.

6. Learned counsel for the respondent No.2 does not dispute the same.

7. Learned counsel for the respondent No. 2 has tendered an affidavit of the respondent No.2 dated 24th November 2022, duly affirmed before the Notary, evidencing the aforesaid. In the said affidavit the respondent No.2 has given his no objection to the quashing of the FIR initiated at his behest, since the matter has been amicably settled between them. The said affidavit is taken on record. Respondent No. 2 is present in Court. On being questioned, he states that he has received the entire amount and an additional amount of Rs.1 lakh by way of interest on delayed payment. 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.

8. Considering the nature of dispute, the amicable settlement between the parties, the consent terms entered between them, the affidavit of the respondent No.2 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 application.

9. The application is accordingly allowed and the FIR bearing C.R. No. 575 of 2021 registered with the Khar Police Station, Mumbai, and consequently, the proceeding pending before the learned Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai being C.C. No.959/PW/2022, are quashed and set-aside.

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

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

11. The applicant as well as the respondent No.2 to deposit a sum of Rs.50,000/- each with the **Vahishta Foundation bearing Account No. 37526531168, IFSC No. SBIN0007780**, as costs. The said costs to be deposited within three weeks from today.

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

13. Stand over to **22nd February 2023**, for recording compliance of the said deposit of costs.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.