

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE JURISDICTION

CRIMINAL WRIT PETITION NO. 1594 OF 2023

1. Mr. Pradumna Shrihari Nirmal
Occ: Business R/o. Flat No. 1103,
B-Wing, Akshara Society, Bhumkar
Chowk, Wakad, Pune.
2. Mrs. Geeta Pradumna Nirmal
Age- 32 Yrs, Occ-Housewife
R/o. Flat No. 1103,
B-Wing, Akshara Society, Bhumkar
Chowk, Wakad, Pune.
3. Mr. Shrihari Bapurao Nirmal
Age- 67 yrs, Occ- Retired
R/o. Flat No. 1103,
B-Wing, Akshara Society, Bhumkar
Chowk, Wakad, Pune.
4. Mr. Guruling Dynoba Andil
Age- 67 yrs, Occ-Retired
R/o. Plot No. 103, Sheetal
Baug Society, Bhosari, Pune

5. Mr. Jairam Guruling Andil
Age- 32 yrs, Occ: Services
R/o. Plot No. 103, Sheetal
Baug Society, Bhosari, Pune.Petitioners/Accused.

Versus

1. The Senior Inspector of Police
Economic Offences Wing,
Pimpri-Chinchwad, Pune
In FIR No. 658 of 2022
Registered at Wakad Police Station.
2. Ramesh Shrimant Gholap
Age- 50 yrs Occ-Business
Lodha, Belmandi, Tower No.17
Flat No. 1304, Pune Near, Mumbai
Pune Express way, Gahunje, Dist.
Maval Pune-412 101.
(Original Complainant)
3. The State of MaharashtraRespondents

Ms. Swapnil Wage, for the Petitioners.

Mr. S.D. Shinde, APP for the Respondent No.1/State.

Mr. Gayatri N. Gokhale for the Respondent No. 2

**CORAM : SUNIL B. SHUKRE AND
M.M. SATHAYE, JJ.**

Date : 28th APRIL, 2023.

JUDGMENT (Per M.M.SATHAYE, J.):

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 1 & 3/State. Learned Counsel for Respondent No.2/complainant waives service. Taken up for final hearing with consent of parties.
2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Criminal Procedure Code, the Petitioners / accused are seeking to quash by consent, a crime registered under FIR No. 658 of 2019 registered with Wakad Police Station, Pimpri Chinchwad Pune, for offences punishable under Sections 420,406,467,468,471,403 read with Section 34 of the Indian Penal Code.
3. Learned counsels for the Petitioners and Respondent No. 2/ complainant jointly state that now the matter is amicably settled and Respondent No. 2 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime

in this petition.

4. Perusal of the FIR dt. 05/06/2019 shows that it is alleged by the Resp. No. 2 that Petitioner No. 1 has cheated him and his friends by soliciting investments for a business of vendorship of a company for furniture supply, but misappropriating the amounts for personal use. It is alleged that Petitioner No. 1 has routed the money to various accounts of other Petitioners, who are his wife, father-in-law and brother-in-law. It is further alleged that Petitioner No. 1 has fabricated bank statements and account entries to defraud the complainant. On these allegations, the impugned FIR is filed.

5. Perused the affidavit now filed and affirmed by Respondent No. 2 on 06/04/2023 shows that it is stated therein that the FIR was filed by him under mis-conception and now, the matter is settled between him and the Petitioners due to intervention of friends and well-wishers. It is further stated that an MOU has been executed for settlement of the present dispute, of which copy is placed on record. It is stated that due to amicable settlement reached, he does not want to proceed further with the criminal case and is consenting and

giving no objection to quashing of impugned FIR.

6. Main accused Petitioner No. 1 & the Respondent No. 2 / complainant is present personally today in the Court and are identified by their respective advocates. On our inquiry, they stated that they have settled the matter voluntarily, without any pressure or coercion.

7. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private and commercial in nature arising out a business transaction gone sore in monetary terms. It further appears that the amounts have exchanged hands and therefore dispute is settled now. As such, this Court is of the considered view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed and the crime is quashed.

8. In the result, we pass following order:

(i) Writ Petition is allowed.

(ii) Impugned FIR No. 658 of 2019 registered with Wakad Police Station Pimpri Chinchwad Pune, for offences punishable under Sections 420, 406, 467, 468, 471, 403 read with Section 34 of the Indian Penal Code and all the consequent proceedings therefrom are quashed and set aside qua the Petitioners.

(iii) This is subject to condition precedent that Petitioners together shall deposit an amount of Rs. 10,000/- & Respondent No. 2 individually shall deposit Rs.50,000/- within 4 weeks from today, in the account of High Court Legal Aid Fund (Account No. 60045304283 Bank Name: Bank of Maharashtra, Branch: Fort, IFSC Code MAHB0000002)

(iv) It is clarified that if the amounts are not deposited as stipulated above, by any of the parties, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.

(v) Rule is made absolute in the above terms. No order as to costs.

(vi) Stand over by 4 weeks, to be placed before Registrar (Judicial-II) for reporting compliance. Ld. Registrar to close the case, if this Order is complied.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)