

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

**CRIMINAL WRIT PETITION NO. 557 OF 2018
WITH
CRIMINAL APPLICATION NO. 390 OF 2018**

1. Rajan Vohra
2. Rajan Madhu ... Petitioners
Versus
1. The State of Maharashtra
2. Stavros E. Stavrou
3. Girish Kishanchand Tejawani ... Respondents

Mr. Shardul Singh a/w Ms. Prerna Gandhi, for the Petitioners.
Mr. K. V. Saste, APP for the Respondent No.1– State.
Mr. Sagar Kursija, for the Respondent No.3.

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

DATE : 20th JANUARY, 2023.

P. C. :

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and the Petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State and learned Counsel Mr. Sagar Kursija waives notice on behalf of the respondent No.3.

**REKHA
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3 By this Petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing and setting aside of the FIR, bearing C.R.No. 35 of 2018, registered with the Pimpri Police Station, Pune, for the alleged offences punishable under Sections 420 r/w 34 of the Indian Penal Code ('IPC' for short) and consequently, the proceeding pending before the learned Judicial Magistrate, First Class, Pimpri at Morwadi, being RCC No. 1579 of 2021. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4 Perused the papers. It appears that there was a contract entered into between the petitioners and the respondent No.3-complainant and that pursuant to the said contract the respondent No.3 (original complainant) was made Sole Distributor of 'F' Beverages. It appears that there was some dispute between the parties even before the goods in question were dispatched by the petitioners to the respondent No.3, pursuant to which, the respondent No.3-original complainant lodged the aforesaid FIR as against the petitioners alleging offence punishable under Section 420

of IPC.

5 According to the respondent No.3, despite making payment of Rs. 48,00,000/- to the petitioners, the goods in question were not supplied. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Judicial Magistrate, First Class, Pimpri at Morwadi, being RCC No. 1579 of 2021.

6 In the interregnum, during the pendency of the aforesaid proceeding and during the pendency of this Petition, the parties amicably settled their dispute and decided to put a quietus to the same. Accordingly, parties have entered into Consent Terms. Learned Counsel for the petitioners has filed Consent Terms entered into between the petitioners and the respondent No.3. The Consent terms entered into between the parties are taken on record and marked as **‘X’ for identification.** To the said Consent Terms is annexed a cheque drawn by the petitioner No.2 in favour of INFUSION SPIRITS i.e. company of the respondent No.3, for a sum of Rs.15,00,000/-. In the said Consent Terms, it is stated that the

petitioner No.2 for himself and on behalf of the petitioner No.1 and respondent No.2 and entities represented by them under the said contract have already returned the principal amount of Rs.48,00,000/- to the respondent No.3. The respondent No.3 does not dispute having received the said amount. Pursuant to the said Consent Terms, the petitioner No.2 has handed over a cheque of Rs.15,00,000/-, in addition to the principal amount, which is accepted by the respondent No.3 on behalf of himself and on behalf of M/s. Infusion Spirits.

7 The respondent No.3 has present in person. On being questioned, he states that dispute has amicably settled between him and the petitioners and as such, he does not intend to proceed with the FIR / proceeding initiated at his behest. The respondent No.3 states that as per para 8 of the Consent Terms, he will withdraw the Special Civil Suit No. 144 of 2018 filed by him before the 10th Joint Civil Judge Senior Division, Pune, within two weeks from today
Statement accepted.

8 Learned Counsel for the respondent No.3 has tendered an

affidavit of the respondent No.3 dated 20/01/2023. In the said affidavit, the respondent No.3 has stated that since dispute has been amicably settled between the parties, he has no objection for quashing of the entire C.R. as well as the proceeding pending with the learned Judicial Magistrate, First Class. The said affidavit is taken on record.

9 Learned Counsel for the respondent No.3 has tendered a photocopy of the Pan Card of the respondent No.3 duly attested by him. The respondent No.3 has been identified by his Counsel and the learned APP has verified the original Pan Card of the respondent No.3.

10 Considering the nature of dispute, the nature of the transaction which has been amicably settled between the parties, the Consent Terms entered into between the parties dated 20/01/2023 and having regard to the judicial pronouncements of the Apex Court in the case **Gian Singh vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. vs. State of Punjab & Anr.**², there is no impediment in

¹ (2012) 10 SCC 303

² (2012) 10 SCC 303

allowing the Petition.

11 Accordingly, the Petition is allowed and the FIR, bearing C.R.No. 35 of 2018, registered with the Pimpri Police Station, Pune, as against the petitioners and consequently, the proceeding pending before the learned Judicial Magistrate, First Class, Pimpri at Morwadi, being RCC No. 1579 of 2021, are quashed and set aside, subject to the cheque handed over by the petitioners in favour of M/s. Infusion Spirits being honoured.

12 The petitioners to deposit a sum of Rs. 50,000/- with **Central Police Welfare Fund** bearing Account No. 914010029005759, IFSC No. UTIB0000060 and the respondent No.3 to deposit a sum of Rs. 50,000/- with **Pasaydan Balvikas Foundation**, bearing Account No. 3775403155 (RTGS-NEFT), IFSC No. CBIN0285070 MICR : 400016138, as costs. The said cost to be deposited within four weeks from today.

13 Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

14 In view of the disposal of the Petition, Criminal Application No. 390 of 2018 stands disposed of.

15 In view of the quashing of FIR, the trial Court to forthwith hand over the passport of the petitioner No.2, on an application being made before the trial Court.

16 The accounts of the petitioners freezed by the police be defreezed by the police forthwith, in any event, within one week.

17 The above order is subject to costs being deposited as stated aforesaid.

18 List on 24th February, 2023, under the caption 'for compliance'.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.