

Anand

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

WRIT PETITION NO. 828 OF 2022

Vishwajeet Subhash Jhavar .Petitioner
Age : 51 yrs., Occu : Developer
Having official address at 301-302,
Jewel Tower, Lane No. 5, Koregaon Park,
Pune - 411 004.

Vs.

1. The State of Maharashtra .Respondents
Through Kondhwa Police Station,
Pune - 411 048.

And through PP, Bombay High Court

2. The Commissioner of Police, Pune
3. Shri Rajesh Mahadev Patne
Age : 62 yrs.,
Having address at 535, Radhakrishna
Apartment, Shaniwar Peth, Kondhwa,
Pune - 411 048.

Mr. Aabad Ponda, Senior Advocate a/w Mr. Amit A. Gharte, for the
Petitioner

Ms S. D. Shinde, APP, for Respondent Nos. 1 & 2 - State

Ms Trupti Khamkar i/b. Mr. Swarup Patil, Advocate, for Respondent
No. 3

Mr. Vishwajeet Jhavar, Petitioner present

Mr. Rajesh Patne, Respondent No. 3 present

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

DATE : 21 APRIL 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, the Petition is taken up for final disposal at the stage of admission itself.

4. On the basis of the complaint made by Respondent No. 3 with the Kondhwa Police Station, Pune for the offences punishable under Sections 406, 420, 504 & 506 of the Indian Penal Code and under Section 5 of the Maharashtra Ownership of Flats (Regulations of Promotion of Construction, Sale, Management and Transfer) Act, 1963, an FIR came to be registered vide C. R. No. 76 of 2019 against the Petitioner and others. The basic allegation was that the accused persons, who were the developers of the flat scheme in which the complainant had booked his flat, did not complete construction of the flat in time and did not hand over possession of the flat to the complainant.

5. The offences were investigated and it was found that the evidence available was only against the present Petitioner

and not against rest of the others and therefore, charge-sheet came to be filed only against the present Petitioner. Now, there is only one accused involved in the present crime vide C. R. No. 76 of 2019 registered with the Kondhwa Police Station, Pune. Today, the position is that there has been an amicable settlement between the Petitioner and Respondent No. 3 by virtue of which all the differences and disputes between them have been resolved and Respondent No. 3 has also received possession of the flat which he had booked.

6. In support of amicable settlement between the accused and the complainant, the complainant i. e. Respondent No. 3 has filed affidavit-in-reply which states that there is settlement arrived at between the complainant and the Petitioner with a view to maintain harmony and proceed further peacefully. It further states that the complainant has no objection for quashing of the FIR involved in the present Petition and consequential proceedings.

7. The Petitioner and Respondent No. 3, both are personally present before this Court and they are duly identified by their respective counsel. They submit that there is an

amicable settlement between them and now, their differences and disputes have been resolved. Respondent No. 3, particularly, submits that he has received possession of the flat which he had booked and now, he has no grudge against the Petitioner. He further states that he has no objection, if the present crime and consequential proceedings are quashed & set aside.

8. The settlement so arrived at between the complainant and the Petitioner, in our considered opinion needs to be accepted by this Court as the underlying dispute between the parties is of civil nature, involving no aspect of public policy whatsoever and this dispute has now been amicably settled.

9. In the result, we proceed to pass the following order.

O R D E R

(i) The Petition is allowed in terms of prayer clause (a) which reads as under :-

“a. this Hon’ble Court be pleased to issue a writ of mandamus and/or any other writ, order and/or direction in the nature thereof, thereby quashing the impugned FIR bearing no. 76 of 2019 registered on 18/01/2020 with the Kondhwa Police Station, Pune for offence punishable under Sections 406, 420, 504 & 506 of the IPC, 1860 and also under Section 5 of the MOFA, 1963 and all consequential proceedings including the Charge-sheet filed in

the said FIR.”

subject to condition that the Petitioner and Respondent No. 3 shall deposit an amount of Rs. 15,000/- each in the account of the Maharashtra State Legal Services Authority within a period of four weeks from the date of receipt of the order, failing which this order shall stand automatically cancelled without further reference to the Court;

(ii) Registry to verify the complaint and if satisfied about making of the complaint, he shall close the matter or place the matter under the caption “For Directions”;

(iii) Rule is made absolute in the aforesaid terms;

(iv) The Petition is disposed of.

(M. M. SATHAYE, J.)

(SUNIL B. SHUKRE, J.)