

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

CRIMINAL APPLICATION NO. 280 OF 2023

1. Rijhav Rajeev Chitkara

Age – 41 years, Occupation: Service,
having his address at D1 Connaught
Mansion Opp. Colaba post office,
next to Shangrila, Mumbai – 400 005.

2. Shilpi Rajeev Chitkara

3. Saachi Chitkara

... Applicants

Versus

1. State of Maharashtra

(At the instance of The
Senior P.I., Khalapur Police Station)

2. Rehmatullah Murtaza Khan,

Age: __ years,
Occupation: Proprietor of Asara Scrap
Traders, having his address at Hazuri Darga,
Faizulla Chawl, Waghale Estate,
Thane, Maharashtra.

... Respondents

Mr. Zain Shroff a/w Ms. Shaista Path i/by & & A Legal for
Applicants.

Mrs. A. S. Pai, Govt. Pleader a/w Ms. M. H. Mhatre, APP for
the Respondent No.1-State.

Mr. Hasan Sayed for the Respondent No.2.

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

DATE : 19th JUNE 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. By this Criminal Application, under Section 482 of the Code of Criminal Procedure, 1973, the applicants seek the quashing of FIR No. 97 of 2019, dated 8 April 2019, registered against them at Khalapur Police Station, at the instance of Respondent No.2 for the offences punishable under Sections 406, 420, 465, 467, 468, 471 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. When this Criminal Application for quashing the impugned FIR was placed before us, it was stated by the learned counsel for the Applicants and Respondent No.2/ Original Complainant that the dispute is purely civil and has been amicably settled. They submitted that Respondent No.2

had received the agreed amount from the Applicants. They submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. They submitted that the consent terms executed between Applicant No.1 and Respondent No.2 have also been filed on record. They submitted that the present case is squarely covered by 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. Further, he, on instructions, submitted that apart from Respondent No.2, no other person came forward to make any allegations against the Applicants.

6. It reveals from the record that Respondent No.2 has filed consent terms dated 16 February 2023 and the consent affidavit dated 1 March 2023. Respondent No.2 is present before the Court and stated that he has no objection if the impugned FIR against the Applicants is quashed, given the settlement between them. On questioning, he reiterates what is said by him in his affidavit. Respondent No.2 has been

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

identified by his counsel. Learned APP has verified the original Aadhar Card of Respondent No.2 and tendered its photocopy duly signed by Respondent No.2.

7. We have examined the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in the case of *Gian Singh and Narinder Singh (supra)*. Based on the material on record, it is apparent that the dispute between the parties has a predominantly civil flavour. In light of the mutual settlement, allowing criminal prosecution to continue would be an abuse of the process of the Court. No fruitful purpose would be achieved due to a settlement between the parties. In order to secure ends of justice, it would be appropriate in the given case that the impugned FIR is put to an end. The consent terms and the affidavit filed on behalf of Respondent No.2 support the prayer of quashing the impugned FIR. Having said so, and on the facts noted above, the impugned FIR bearing C.R. No. 97 of 2019 registered with Khalapur Police Station against the Applicants needs to be quashed and set aside. Accordingly, the impugned FIR No. 97 of 2019 dated 8 April 2019, registered at Khalapur Police Station, at the instance of Respondent No.2 for the offences punishable under Sections 406, 420, 465, 467, 468, 471 of

the Indian Penal Code, is quashed and set aside, subject to condition that the Applicants deposit a sum of Rs.25,000/-in total and Respondent No.2 deposit Rs.25,000/- with the Legal Services Authority within three weeks of the uploading of this order.

8. Rule is made absolute in the above terms. Application is disposed of.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2023.06.27
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