

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

CRIMINAL WRIT PETITION NO.1645 OF 2022

- | | | |
|----|----------------------------|----------------|
| 1. | Ujawal Ramchandra Amrutkar | |
| 2. | Lotan Prbat Pagar | |
| 3. | Rahul Ramdas Kapadnis | |
| 4. | Kiran Suresh Kor | ...Petitioners |
| | Versus | |
| 1. | Kunal Ramesh Mutha | |
| 2. | The State of Maharashtra | ...Respondents |

Mr. Mahendra N. Sandhyanshiv, for the Petitioners.

Mr. Ajit Alange, for the Respondent No.1.

Ms. P. P. Shinde, A.P.P for the Respondent No.2 – State.

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

DATE : 1st FEBRUARY 2023

P.C. :

Mentioned out of turn.

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. Mr. Alange waives notice on behalf of the respondent No.1. Learned APP waives notice on behalf of the respondent No.2 – State.

3. By this petition, preferred under Section 482 of the Criminal Procedure Code, the petitioners seek quashing of the FIR bearing C.R. No. I-118 of 2019, registered with the Jaikheda Police Station, Nashik, for the alleged offences punishable under Sections 406, 408, 420 r/w 34 of the Indian Penal Code (IPC). Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent No.1, he was in the bussiness of purchasing and selling onions in the Agriculture Market Committee at Nampur and was running the said bussiness in the name and style of 'Balaji Traders'. According to the respondent No.1, all the purchased onions were sent to his godown. He has stated that while weighing the goods and unloading of the goods, one receipt would be issued to the owner of the goods and after production of the said receipt, the cashier of the respondent No.1 would make payment to the owner. According to the respondent No.1 on 4th July 2019, an onion loaded tractor was sent

to the godown, however, instead of unloading the onion, the petitioner No.1 kept the said tractor trolley aside and attached another empty trolley with the said tractor. When the respondent No.1 realised the said fact on checking the CCTV footage of the godown, he lodged the aforesaid complaint/FIR as against the petitioners. It was alleged in the said complaint that the petitioners have lost Rs.14,045/-. Admittedly, charge-sheet has not been filed in the said case, till date.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same.

6. Learned counsel for the respondent No. 1 has filed an affidavit of the respondent No.1 dated 10th December 2021. The said affidavit is on page 15 of the petition. In the said affidavit the respondent No.1 has stated that the dispute has been amicably settled between them and that he does not intend to proceed as against the petitioners and as such has no objection to the quashing of the FIR.

Respondent No. 1 is present in Court. On being questioned, he reiterates what is stated by him in his affidavit. Learned counsel for the respondent No. 1 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.1 has identified the respondent No.1 and the learned APP has also verified the original aadhar card of the respondent No.1.

7. We are informed by the learned counsel for the respondent No.1 that the respondent No.1 has received the payment of Rs.14,045/- allegedly misappropriated by the petitioners.

8. Considering the nature of dispute, the amicable settlement between the parties, the affidavit of the respondent No.1 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

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

allowing the petition.

9. The Petition is accordingly allowed and the FIR bearing C.R. No. I-118 of 2019, registered with the Jaikheda Police Station, Nashik, is quashed and set-aside.

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

11. Learned Counsel for the respondent No.1 to file his Vakalatnama, if not filed, on behalf of the said respondent, in the registry, within two weeks of uploading of this order.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.