

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

CRIMINAL WRIT PETITION NO. 1866 OF 2023

Kailas Harihar Kumhar

Age 39 years, Occu. - Business

r/o-30/50, Sambhaji Chowk,

Ichalkaranji,

Tal- Hatkanagle, Dist. Kolhapur.

... Petitioner

Versus

1. The State of Maharashtra

Through Shahapur Police Station

2. Ramesh Ramavtar Jaju

Age 43 years, Occu: Business,

R/at: 12/840, Trirupati Appartment,

Plot No.9,Kagwale Mala,

Ichalkaranji, Dist. Kolhapur

... Respondents

Ms Saba Shaikh for the applicant.

Mr K V Saste, APP for the State.

Mr Ateet Shirodkar a/w. Bhavin Jain for respondent No.2.

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

DATE : 17 JULY 2023

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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. The Petitioner has filed this Criminal Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR bearing CR No.348 of 2022 dated 24 November 2022, registered with Shahapur Police Station, Kolhapur for the offences punishable under Sections 406, 420, 409, 506 r/w 34 of the Indian Penal Code, and the proceedings arising from it. The petitioner seeks to quash the FIR on the ground that they have amicably settled their dispute.

4. When this Criminal Writ Petition was placed before us, learned counsel for the Petitioner and Respondent No.2 jointly stated that since the parties have settled the matter amicably, continuing the prosecution would serve no purpose.

5. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

6. The record shows that Respondent No.2 has tendered a consent affidavit on record. He is present before the Court and states that he has no objection to quash the impugned FIR against the Petitioner as he has received the amount of Rs.25 lacs as per the Memorandum of Understanding dated 15 February 2023. Upon questioning, he reiterated the statement made in his affidavit and was identified by his counsel.

7. We have examined 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)***. Considering the fact that the amount was repaid and the parties have settled their dispute, no purpose would be served by keeping the prosecution alive. To ensure justice is served, it would be appropriate to quash the impugned FIR against the Petitioner. The consent affidavit filed on behalf of Respondent No. 2 supports the prayer for quashing of the FIR. Having said so, and on the facts noted above, the impugned CR No. 348 of 2022, registered with Shahapur Police Station, against the Petitioner needs to be quashed and set aside. Accordingly, the impugned FIR bearing No. 348/2022 and the proceedings arising from it qua the Petitioner only are quashed and set aside, subject to the condition that Petitioner and Respondent

No.2, respectively, shall deposit a cost of Rs.50,000/- with Kirtikar Law Library within three weeks of this order being uploaded.

8. Rule is made absolute in these terms, and this Petition is disposed of subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.