

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

CRIMINAL WRIT PETITION NO.1233 OF 2023

M/s. Prajita Developers Pvt. Ltd. & Anr. .. Petitioners

Vs.

State of Maharashtra & Anr. .. Respondents

Mr. Satyam Nimbalkar a/w. Adv. Omkar Chitale a/w. Adv. Ashish for the Petitioners.

Ms. M. H. Mhatre, APP for Respondent-State.

Ms Ekta Dalvi i/b. Mr. J. J. Shah, for Respondent No. 3 in WP and for the Applicant in IA.

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ**

DATED : 13th JUNE, 2023

P.C.:

1. Pursuant to the complaint lodged by the Respondent No. 2 deceased through his wife-Saira Banu Khan an offence being crime no. 3 of 2021 punishable u/s. 403, 406, 417, 420, 120(B), 506, 511 r/w. 34 of IPC came to be registered against the Petitioners.

2. The offence is based on the non-performance of the promise as was made in the Deed of Assignment dated 20/04/2010. The aforesaid differences between the parties has led to filing of the arbitration proceedings giving rise to Commercial Arbitration Petition (L) No. 32349 of 2022.

3. The Petitioners and the Respondent No. 2 has tendered consent terms in the said arbitration petition and accordingly the Single Judge of this Court taking up the Commercial Arbitration proceedings vide order dated 09/03/2023 disposed of the lis between the parties in the aforesaid proceedings based on the consent terms referred above executed inter-se between the Petitioners and the Respondent/Complainant on 08/03/2023.

4. It appears that the said consent terms not only specifies for the settlement of Civil suit but there is also mention about settling the criminal proceedings including the present FIR being Crime No. 03/2021 investigated by Economic Offence Wing (EOW) vide CR No. 68 of 2021.

5. The Respondent No. 2-Saira Banu Khan in view of her health conditions and certificate issued by Dr. Gokhale was permitted to join through the virtual mode and accordingly she has extended her consent for quashing of the aforesaid proceedings.

6. In categorical terms she has stated that the entire issue is settled between the parties as per the consent terms reflected hereinabove particularly the one tendered in Commercial Arbitration Petition (L) No. 32349 of 2022.

7. In the aforesaid background and having regard to the

consent extended by the Respondent No. 2, we deem it appropriate to allow the present Petition.

8. As such, the Petition is allowed in terms of prayer clause (a) of the Petition, which reads thus:

"(a) This Hon'ble Court be pleased to issue a writ of mandamus and quash the proceedings against the Petitioners in FIR bearing No. 03/2021 for offences under section 403, 406, 417, 420, 120(B), 506, 511 r/w. 34 of the Indian Penal Code registered with the Bandra Police Station."

(SHARMILA U. DESHMUKH, J)

(NITIN W. SAMBRE, J.)