

HUSEN

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

CRIMINAL WRIT PETITION NO. 1293 OF 2023

Vishwajeet Subhash Jhavar)
Age:51 Years, Occ:-Business,))
Resident of Pune having)
address at 301-302,)
Jewel Towers, Lane No.5,)
Koregaon Park,)
Pune - 411 001) ...Petitioner

Versus

1. State of Maharashtra)
Through Police Inspector,)
Koregaon Park Police)
Station, Pune – 411001)
And through APP, Bombay)
High Court, Fort,)
Mumbai– 400032)
2. Bhagwan Ramchand Mukhi,))
Age:65 Years, Occ:-Business,))
Resident of Pune having)
address at Flat No.1103,)
Block-B, Marvel Viva City ,)
Lane No.17, Kalyani Nagar,)
Yerwada, Pune – 411006.)...Respondent/Complainant

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

Ms. S.D. Shinde, APP, for Respondent No.1-State.

Mr. Ranjit V. Sangle a/w. Mr. Chaitanya R. Kulkarni a/w. Mr. Ameet Shinde a/w. Ms. Harshada Shrikhande a/w. Ms. Nehal Dhruv, for Respondent No.2.

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

RESERVED ON : 6th APRIL, 2023

PRONOUNCED ON : 11th APRIL, 2023

: JUDGMENT (PER : M. M. SATHAYE, J.) :

. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 1 - State. Learned Counsel for Respondent No. 2 / complainant waives service. Taken up for final hearing with consent of parties.

2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Criminal Procedure Code, the Petitioner is seeking to quash FIR No. 10 of 2022 registered with Koregaon Park Police Station, Pune and consequent Chargesheet No. 82 of 2022

for offences punishable under sections 420, 406 r/w. 34 of the Indian Penal Code (“IPC” for short).

3. Learned counsels for the Petitioner and Respondent No. 2 jointly state that the matter is amicably settled and Respondent No. 2 / complainant has filed consent affidavit affirmed on 05.04.2023 to which Petitioner has filed reply affidavit affirmed on 06.04.2023. Learned APP for the State has not seriously opposed the settlement and quashing of crime.

4. Perusal of FIR dated 07.02.2022 as well as the affidavits of Respondent No. 2/ complainant and Petitioner’s reply thereto, shows that the dispute is arising out of business transaction between parties in which Respondent No. 2 had invested money in construction project of Petitioner builder. The affidavit of Respondent No. 2 shows that as of now, he is suffering from severe health condition of lungs and he has now settled the dispute to the extent of principal amount involved in the

matter and for that he has no objection for quashing of FIR, subject to condition that his rights and contentions in respect of other civil disputes against the Petitioner are kept open and intact. Learned counsel for the Petitioner makes similar request.

5. The Petitioner and Respondent No. 2 / complainant were present personally in the Court on 06.04.2023 and were identified by their respective advocates. On enquiry, they stated that the settlement has been arrived at without any pressure or coercion. However both submitted and prayed that rights and contentions of both the parties, so far as remaining civil dispute between them is concerned, be kept open.

6. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private and civil in nature arising out of a business transaction and, as such, this Court is of the view that if the parties are settling amicably, no public policy will

be offended, if such, settlement is allowed and crime is quashed.

7. In the net result, we pass following order:

- (i) Writ Petition is allowed.
- (ii) FIR No. 10 of 2022 registered with Koregaon Park Police Station, Pune and consequent chargesheet No. 82 of 2022 for offences punishable under sections 420, 406 r/w. 34 of the Indian Penal Code and all the consequent proceedings thereto are quashed and set aside.
- (iii) This is subject to condition precedent that the Petitioner and Respondent No. 2 each deposit an amount of Rs. 50,000/- within four weeks from today, in the account of High Court Legal Aid Fund (Account No. 60045304283, Bank of Maharashtra, Branch Mumbai Fort, IFSC Code MAHB0000002).
- (iv) It is clarified that if the amounts are not deposited as stipulated above, by any of the

parties, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.

- (v) All the rights and contentions of both the Petitioner and Respondent No. 2 in respect of their remaining civil dispute are kept open to be decided in accordance with law and this Court has not expressed any views thereon.
- (vi) Rule is made absolute in the above terms. No order as to costs.
- (vii) Stand over to 2nd May, 2023 for reporting compliance.

[M.M. SATHAYE, J]

[SUNIL B. SHUKRE, J.]