

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1200 OF 2023

Mr. Lakshmi Prasad Anand Desai ..Petitioner
V/s.
The State of Maharashtra and Anr. ..Respondents

Mr. Debashish Godbole for the Petitioner.
Ms. M.H. Mhatre, APP for the Respondent.
Mr. Shreyansh Mithare for Respondent No.2.

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

DATE : 31st MARCH 2023

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

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

2. This is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') filed for quashing FIR No. 62 of 2023 registered with APMC Police Station, New Bombay for offences punishable under Sections 406 and 420 of the Indian Penal Code (for short 'IPC')

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3. The learned counsel for the Petitioner and Respondent No.2/Complainant jointly state that the Petitioner/accused and Respondent No.2 complainant have amicably settled the matter and Respondent No.2 has filed an affidavit to that effect.

4. Perusal of the FIR dated 15.02.2023 shows that the matter is arisen out of purchase of a shop by Respondent No.2 from Petitioner. It appears that out of total consideration substantial amount was paid by Respondent No.2 to the Petitioner. However, the Petitioner did not complete the transaction and therefore, the FIR is filed. Perusal of the affidavit now filed by Respondent No.2/complainant dated 10.03.2023 shows that Respondent No.2 has stated that matter is amicably settled between her and the Petitioner and the FIR was lodged due to misunderstanding. However, now all issues between the parties are resolved and she has no objection if the subject matter of FIR is quashed and set aside.

5. It is jointly stated by the Petitioner and Respondent No.2 that the Petitioner has returned the money to Respondent No.2 which was taken for the transaction. Be that as it may.

6. The Petitioner and Respondent No.2 are personally present in the Court, who are identified by their respective Advocates. On inquiry with them, both the Petitioner and Respondent No.2

stated that they have voluntarily entered into settlement and there is no pressure or coercion. The learned APP has not seriously opposed the settlement between the parties.

7. From the aforesaid facts, it appears that underlying dispute between the parties is of civil and private nature and as such, if the parties want to settle the matter amicably, the present criminal proceedings may not be impediment in their way, as no public policy will be offended if, they are permitted to settle the dispute and the FIR, is quashed.

8. In that view of the matter, we pass following order:

ORDER

i) The petition is allowed in terms of prayer clause (a), which reads as under, subject to the following conditions:-

(a) That this Hon'ble Court be pleased to pass appropriate writ, order, and direction directing the quashing of F.I.R.No. 0062 of 2023 under the provisions of section 406 and 420 of Indian Penal Code, 1860 registered by the Respondent no.1 at the behest/complaint of the Respondent no.2, on such terms and conditions as this Hon'ble Court may deem fit and proper.

ii) The petitioner shall deposit an amount of Rs.10,000/- and respondent No.2 shall deposit an amount of Rs.10,000/- in the account of Mumbai Police Welfare Fund, the details of which are given below, within four weeks from the date of the order, failing

which this order shall stand cancelled automatically and this petition shall stand restored to the original file and listed before this Court for further directions.

Mumbai Police Welfare Fund

Bank Name: Axis Bank

Branch Name : Lamington Road.

Account No.: 465010100008693

IFSC NO.: UTIB0000465

(iii) Put up for compliance on 9th June 2023. Prayer clause (b) is rejected.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)