

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 388 OF 2022

1. M/s Saima Investments Private Limited
Through its Constituted Attorney
Waseem Ahmed Ghazi.
2. Nadeem Ahmad
3. Saima Anjum
4. Nayeem Ahmad Ghazi
5. Nazneen Ruby
6. Nahima Anjum
7. Waseem Ahmed Ghazi
8. Yasmin Anjum
9. Nasreen Anjum
10. Rakesh Chandra Shukla ... Applicants

Versus

1. State of Maharashtra
2. Munish Munir Khan ... Respondents

Mr. Ashok Kumar Mishra a/w Jilesh Sanghavi i/b M/s. Solicis Lex,
for the Applicants.

Mr. Y. M. Nakhwa, APP for the Respondent No.1 – State.

Mr. Vikram Sutaria, for the Respondent No.2.

REKHA
PRAKASH
PATIL

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by REKHA
PRAKASH PATIL
Date: 2023.03.08
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Rekha Patil

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

DATE : 24th FEBRUARY, 2023.

P. C. :

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and the Application is taken up for final disposal. Learned A.P.P. waives notice on behalf of the respondent No.1–State and learned Counsel Mr. Vikram Sutaria waives notice on behalf of the respondent No.2.

3 By this Application, preferred under Section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashing and setting aside of the FIR, bearing M.E.C.R.No. 03 of 2021, registered with the Versova Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420, 418, 427, 465, 466, 467, 471, 120B r/w 34 of the Indian Penal Code and consequently, the proceeding pending before the learned Metropolitan Magistrate, 44th Court, at Andheri, Mumbai, being Case No. 1509/PW/2022. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4 Perused the papers. According to the respondent No.2, his parents had taken a residential premises i.e. flat No. 101/B and flat No. 201 in a building known as “Woodstock” at Versova, J. P. Road, Andheri (West), Mumbai, on leave and license basis from the applicants. He has stated that pursuant to the leave and license agreement, his parents had deposited a sum of Rs.10 lakhs with the applicants. According to the respondent No.2, since the applicants failed to return Rs.10 lakhs deposit on completion of the leave and license period, he filed the aforesaid private complaint in the Court of the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai, pursuant to which, the learned Magistrate passed an order under Section 156(3) of the Code of Criminal Procedure and an FIR, bearing MECR No. 03 of 2021 came to be registered with the Versova Police Station.

5 After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai, being Case No. 1509/PW/2022.

6 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. Accordingly, a copy of Memorandum Of Understanding ('MOU' for short) dated 18th February, 2023 is tendered before us. The same is taken on record.

7 Learned Counsel for the respondent No.2 has also tendered an affidavit of the respondent No.2 dated 18th February, 2023 duly notarized before the Notary. The said affidavit is taken on record. In the said affidavit, the respondent No.2 has stated that in view of amicable settlement between the parties, and since the money (deposit) has been returned, he has no objection for quashing of the FIR / proceeding initiated at his behest.

8 The respondent No.2 is present in person. On being questioned, he re-iterates what is stated by him in his affidavit. He has been identified by his Counsel. Learned Counsel for the respondent No.2 has also tendered a photocopy of the Aadhar Card of the respondent No.2 duly attested by him. The same is taken on record and the original is verified by the learned APP.

9 Considering the nature of dispute, the amicable settlement between the parties, the MOU entered into between them, the affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case **Gian Singh vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. vs. State of Punjab & Anr.**², there is no impediment in allowing the Application.

10 Accordingly, the Application is allowed and the FIR, bearing M.E.C.R.No. 03 of 2021, registered with the Versova Police Station, Mumbai and consequently, the proceeding pending before the learned Metropolitan Magistrate, 44th Court, at Andheri, Mumbai, being Case No. 1509/PW/2022, as against the applicants, are quashed and set aside.

11 The applicants to pay costs of Rs. 50,000/- (total) with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No.UTIB0000465**. The said costs to be deposited within four weeks from today.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

12 Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

13 The above order is subject to costs being deposited as stated aforesaid.

14 List on **24th March, 2023**, under the caption 'for compliance'.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.