

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

CRIMINAL WRIT PETITION NO. 1542 OF 2023

1. Mr Cherag Neriosang Bamboat
Age: Adult Occ: Bueinss
2. Dr Mrs Villie Neriosang Bamboat
Age: Adult Occ: Ophthalmologist
Both R/at: C-201, Purnima Apartment
23, Peddar Road, Near Jaslok Hospital
Mumbai-400026.
3. Mr Rakesh Shiva Shetty
Age: Adult Occ: Business
R/a: C-2504, Oberoi Woods Building
Behind Oberoi Mall,
Goregaon (East), Mumbai-400060. ... Petitioners

Versus

1. The State of Maharashtra
2. Senior Inspector of Police
Amboli Police Station, Amboli,
Mumbai-400102.
3. Mr Bakhtiyaar Irani
R/o: B-3, New Wadia Block,
Malcolm Bagh, Parsi Colony,
S. V. Road, Jogeshwari (West)
Mumbai-400047. ... Respondents

Mr Vikramjeet Siram for the Petitioners.

Mrs A. S. Pai, Govt. Pleader a/w Mrs S. D. Shinde, APP for the Respondent Nos. 1 and 2-State.

Mr Aditya Chavan for Respondent No.3.

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

DATE : 24 JULY 2023

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. By this petition, filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the Petitioners seek to quash FIR bearing C.R. No. 492 of 2022 dated 19 May 2022, registered at Amboli Police Station, Mumbai, at the instance of Respondent No.3, for the offences punishable under Sections 420, 120-B read with 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999. The Petitioners seek to quash the impugned FIR on the ground that they have amicably settled

the dispute with Respondent No.3.

4. The learned counsel for the Petitioners and Respondent No.3, in unison, submitted that the parties have voluntarily decided to put an end to their dispute. The continuation of the prosecution, in such circumstances, would be an exercise of futility and weighs with the Court. The impugned FIR was lodged due to a misunderstanding and the parties have settled their differences amicably. They submitted that this case falls under the purview of the law laid down by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

5. Respondent No.3 has filed his affidavit, extending consent for quashing the impugned FIR. Respondent No.3 is present before us and stated that he has no objection to the quashing of the impugned FIR against the Petitioners. Upon questioning, he confirmed the contents of his affidavit and was identified by his counsel. The learned APP has verified his original Aadhar Card, of which a self-attested copy is placed on record.

6. After examining the present case in accordance with the

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

law laid down by the Hon'ble Supreme Court in the cases of *Gian Singh and Narinder Singh (supra)* and the material on record, it is clear that the dispute has predominantly civil flavour and has been resolved amicably. That being so, continuing with the prosecution when the complainant is unwilling to support the prosecution would be a futile exercise and serve no purpose. The consent affidavit of Respondent No.3 supports the prayer to quash the FIR.

7. In view of above, the impugned FIR and the proceedings arising from it deserve to be quashed.

8. Accordingly, the impugned FIR bearing C.R. No. 492 of 2022 dated 19 May 2022 registered at Amboli Police Station, Mumbai, against the Petitioners, and the proceedings arising from it are quashed and set aside, subject to payment of costs of Rs.10,000/- to the Kirtikar Law Library, Mumbai, by each of the Petitioners within a period of three weeks from the date of uploading of this order.

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

R. N. LADDHA, J.

NITIN W. SAMBRE, J.