

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

CRIMINAL APPLICATION NO.561 OF 2023

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2023.08.02
10:02:37
+0530

Mr. Satish Baburao Patil

..Applicant

Versus

Mr. Navinprasad Sarajuprasad Singh & Anr.

..Respondents

Ms. Prajakta Pawar i/by AVC & Associates, for the Applicant.

Respondent No.1 in person present.

Ms. M. H. Mhatre, APP for the Respondent No.2/State.

Applicant in person present.

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

DATE : 28th JULY, 2023

PC.

1. Heard counsel for the applicant, so also the respondent No.1/complainant, who appears in person and the learned APP for the Respondent No.2/State.

2. The applicant has invoked provisions of Section 482 of the CrPC seeking quashing of the offence being Crime No.1008 of 2022 registered on 23rd May, 2022 punishable under Sections 406, 420 r/w 34 of IPC against the present applicant and co-accused/Umed Amirali Dodia.

3. The case of the prosecution against the applicant and co-accused is, they were partners of M/s. Aditya Enterprises, a

development firm who has accepted substantial amount in lakhs from the respondent No.1/complainant in June, 2013 on words with a promise to deliver developed property and has failed to honour the commitment till this date.

4. It appears that after the registration of offence, the applicant/accused claimed that he has already paid amount to the complainant.

5. The respondent No.1/complainant is physically present in this Court. Mr. Navinprasad Singh aged about 78 years old is identified by the learned APP through his Aadhar Card and the said complainant assured that he shall be placing on record photocopy of his Aadhar Card which has duly mention of his contact details on the same.

6. The said statement made by the respondent No.1/complainant, who is physically present, based on the original Aadhar Card, same is accepted. The applicant who is physically present is also identified by the respondent No.1/complainant.

7. The respondent No.1/complainant has tendered the consent affidavit thereby extending consent for quashing, as he has not only received the principal amount but also interest from the applicant/accused.

8. The fact remains that the transaction was entered into by the respondent No.1/complainant and the firm of which the applicant is a partner way back in 2013 and the respondent No.1/complainant is made to suffer for almost last ten years.

9. Though the respondent No.1/complainant has agreed to quash FIR by consent, however, this Court cannot be oblivious to the fact that the applicant has made the respondent No.1/complainant to lodge complaint and used the police machinery at the cost of public in the matter of offence of cheating.

10. As such, though this Court inclined to grant prayer for quashing of FIR registered against the applicant/Mr. Satish Baburao Patil, as consent extended by the respondent No.1/complainant, this Court deemed it appropriate to saddle cost of Rs.5,00,000/- to be deposited in this Court within a period of one month from today as is undertaken by the applicant before this Court. Once the cost of Rs.5,00,000/- is deposited, an amount of Rs.2,00,000/- be made over to the Police Welfare Fund, whereas out of balance amount of Rs.3,00,000/-, Rs.1,00,000/- be diverted to the High Court Legal Services Authority, Rs.1,00,000/- to the Kirtikar Law Library and Rs.1,00,000/- be paid to the respondent No.1/complainant.

11. Needless to clarify that in case if the applicant fails to pay cost as has been agreed, this Court will be constrained to issue non-bailable warrant against the applicant.

12. With these above observations, we deem it appropriate to allow the prayer of the applicant for quashing of the FIR being Crime No.1008 of 2022 registered on 23rd May, 2022 punishable under Sections 406, 420 r/w 34 of IPC in view of judgment of Supreme Court in the matter of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***(2012) 10 SCC 303*** and ***Narinder Singh & Ors. Vs. State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***.

13. As such the application stands allowed in above terms.

14. Needless to clarify that this Court has quashed the FIR registered against the present applicant only and not against the other co-accused in the matter.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]