

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.414 OF 2019

1. Vishwajeet Subhash Jahavar

Having official address at 301-302,
Jewel Tower, Lane No.5,
Koregaon Park,
Pune – 411 001.

2. Shri. Kartik Dhansekharan,

Age – 36 Years,
Having address at :- O Building 501,
Rohan Mithila CHS, Viman Nagar,
Pune – 411 014.

.. Applicants

Vs.

1. Senior PI, Hadapsar Police Station
Hadapsar, Pune.

2. Commissioner of Police, Pune,

3. State of Maharashtra,
Through APP High Court Mumbai.

4. Shri. Mukesh Mohandas Mansukhani,
Residing at Flat No.19, 2nd Floor,
Mama CHS., Ulhasnagar – 421 003.

.. Respondents

- Mr. Aabad Ponda, Sr.Adv. a/w. Mr. Amit A. Gharte, for the Applicant.
- Ms. Ankita Pawar a/w. Mr. Harshavardhan G. Khambete, for Respondent No.4.
- Mr. Mukesh Mansukhani-Respondent No.4 appear through VC.
- Mr. J.P. Yagnik, APP for State.
- Applicant is present before the Court.

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

DATE : 19th APRIL, 2023.

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

1. Rule. Rule is made returnable forthwith. Heard finally by consent of the parties.

2. The applicants are Accused Nos.1 and 2 in Crime No.65 registered at the behest of the Complainant/Respondent No.4–Mukesh Mohandas Mansukhani at Hadapsar Police Station Pune. The offences registered against these applicants and also other six accused–persons are those which are punishable under Sections 406, 420, 465, 467, 468, 471, 474, 120B r/w Section 34 of the Indian Penal Code, 1860 and also under Sections 3 and 8 of the Maharashtra Ownership Flats Act, 1963.

3. On going through the allegations made in the FIR, it is seen that the main grievance of the applicants was that the flat that he had agreed to purchase from the accused–persons was not handed over to him in time and that there were certain false representations made by the accused–persons with regard to the specifications and area of the flat in question. It is obvious from these allegations that basically the underlying dispute from which the alleged crime has arisen is

predominantly of civil nature and that it also does not involve any aspect of public policy. If there is an amicable settlement reached between the parties in such nature of a dispute, the settled law would tell us that the amicable settlement be accepted by this Court.

4. Now the question is whether the amicable settlement reached between Complainant/Respondent No.4 with these two applicants, who are two of total 8 accused-persons in the present crime as it is seen from the allegations filed on record by the complainant/Respondent No.4 should be accepted by this Court or not. Ordinarily, we would not accept such settlement made with only a few accused-persons leaving out the rest of the accused-persons, but as pointed out by the learned Senior Advocate for the applicants that there is indeed a consent given by Respondent No.4 for quashing of this crime and further proceedings in the matter even against the remaining applicants when he has stated before the trial Court in the affidavit dated 16.01.2019 that he wishes to withdraw the allegations against all the accused-persons and that he had no grievances remaining against any of the accused-persons having settled their dispute amicably with them.

5. He relies upon copy of the affidavit dated 16.01.2019 placed on record at Page No.24 of this application. We have gone through the said affidavit and we find that there is such an amicable settlement with

all the accused-persons as we are made to believe in this case. Learned counsel for Respondent No.4/Complainant also agreed to the same.

6. The complainant/Respondent No.4 is present before us through Video Conferencing, which we have permitted for being availed of by him while in Dubai. He has been duly identified by his learned counsel. Upon enquiry made by us, he submits that he has amicably settled his dispute, which is of a civil nature not only with these applicants, but also with all remaining accused-persons. He also states that affidavit dated 16.01.2019 was filed by him before the Court of Judicial Magistrate First Class, Cantonment Court at Pune in Crime No.65 of 2019. He further states that the settlement has been arrived at with all the remaining accused-persons without any pressure and coercion and is absolutely voluntary in nature and for that reason he has no objection for quashing of FIR by consent.

7. The applicants are also personally present before this Court and are identified by their respective learned counsel. They also state that the dispute has been amicably settled between them and Respondent No.4 voluntarily.

8. In these circumstances, we are inclined to allow this application on the basis of amicable settlement reached between the applicants and

Respondent No.4 and also with all the remaining accused-persons.

9. Learned APP has some reservations in the matter and he contends that the offence relating to the crime of forgery is serious in nature and therefore, must not be allowed to be quashed by consent. We do appreciate the spirit behind the submission of the learned APP. Ordinarily, an offence of forgery is considered to be a serious offence and that is something in which a larger society is involved. However, there is another perspective to look at the issue. If the complainant does not wish to proceed against any of the accused-persons having amicably settled his dispute with all of them, any further continuation of trial would be only a waste of time and an exercise which could be termed to be still born. In other words, it would be an exercise of futility. Therefore, in a case like this, where the basic dispute underlying the crime is of civil nature and the parties have settled it, ends of justice for larger society would demand that the settlement is accepted. We, therefore, find that this application deserves to be allowed by accepting the amicable settlement between the parties.

10. Hence, the following order:-

(i) Application is allowed in terms of prayer clause (a), which reads as under:-

(a) that this Hon'ble Court be pleased to quash and set aside

the impugned FIR bearing No.65 of 2019 registered with Hadapsar Police Station, Pune on 12th January, 2019 and further all other consequential proceeding initiated in view of the said impugned FIR bearing No.65 of 2019.

(ii) This is subject to the condition that the applicants - Vishwajeet Subhash Jahavar and Kartik Dhansekharan, shall deposit an amount of Rs. 25,000/- each and Respondent No.4- Mukesh Mohandas Mansukhani shall deposit an amount of Rs.10,000/-, in the account of Central Police Welfare Fund (Bank Name: AXIS Bank, Worli Branch, Account No.914010029005759, IFSC Code : UTIB0000060) within a period of four weeks from the date of this order, failing which this order shall stand cancelled automatically and the matters shall place before this Court for further directions.

(iii) Verification of compliance shall be made by the learned Registrar (Judicial-II), who shall close the matters upon his satisfaction regarding compliance having been done by the above referred persons or otherwise matters shall be placed before this Court for further directions.

(iv) Rule is made absolute in the above terms. No order as to costs.

[M.M. SATHAYE, J]

[SUNIL B. SHUKRE, J.]