

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.480 OF 2022**

Abhishek Manik Chavan	]	Petitioner
vs.		
1. The State of Maharashtra	]	
2. Vipul Arun Randeri	]	Respondents
	a/w	

**INTERIM APPLICATION NO.1277 OF 2022
IN
WRIT PETITION NO.480 OF 2022**

Abhishek Manik Chavan	]	Applicant
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IN THE MATTER BETWEEN:

Abhishek Manik Chavan	]	Petitioner
vs.		
1. The State of Maharashtra	]	
2. Vipul Arun Randeri	]	
3. The Union of India	]	Respondents

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Mr. Sagar Talekar, for Petitioner.

Ms. P.P. Shinde, A.P.P, for Respondent No.1-State.

Mr. Ankit Lohia a/w Ms. Garima Mehrotra, for Respondent No.2.

Mr. Dashrath Dube, for Union of India in I.A. No.277 of 2022.

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

DATE : 22nd February, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]

1. Heard.
2. Rule.
3. Rule is made returnable forthwith. With the consent of the parties, petition is taken up for final disposal.
4. Learned A.P.P waives notice on behalf of respondent No.1-State and Mr. Lohia, learned Counsel waives notice on behalf of respondent No.2.
5. By this petition under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the petitioner seeks quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.482 of 2017 with Shahapur Police Station, District. Thane, for the alleged offences punishable under sections 420, 465, 467, 468, 471, 120-B r/w 34 of the Indian Penal Code (for short "I.P.C") and consequently, the proceeding pending before the Judicial Magistrate First Class, Shahapur being Criminal Case No.139 of 2018.

Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Facts in brief, are as under.

7. Petitioner is one of the six accused. He is the son of original accused No.3- Manik Chavan. Respondent No.2 is the first informant. It is alleged that the petitioner along with rest of the accused executed sale deed in respect of land belonging to the respondent No.2 by producing an impostor before the Sub Registrar, Shahapur, Thane.

8. Respondent No.2 is the owner of the land bearing Survey No.19/5 having area 1.47 R situate at Sarangpuri, Taluka Shahapur. It is alleged that an area of 0.97.0 was transferred in the name of one Girish Ananta Andade for a consideration of Rs.20,00,000/- vide sale deed No.2934 of 2017 dated 28th March, 2017 and an area of 0.50.0 was transferred in the name of Abhishek Manik Chavan (petitioner) for a consideration of Rs.5,00,000/- vide sale deed No.2937 of 2017 dated 28th March, 2017 from the said survey No.19/5. It is alleged that the petitioner, in collusion with

rest of the accused, posed himself as a complainant by creating false documents in the name of the respondent No.2 before the Sub Registrar, Shahapur. Accordingly, a report came to be lodged with Shahapur Police Station, Thane, as above and above offences came to be registered.

9. It is pertinent to note that the respondent No.2 is an old man residing at Mumbai and, therefore, was unaware about the said fraudulent transfer of his land. He came to know about the same on 10th August, 2017 when persons namely Mangesh Kamlakar Adhikari and Narayan Mukund Vide, who are the residents of Sarangpuri, informed him about sale of his land bearing Survey No.19/5.

10. It is the contention of the petitioner that he was residing at Nashik along with his mother, whereas, his father was posted as a Range Forest Officer at Dhasai, Taluka Shahapur. The petitioner contends that on 15th September, 2017 he was out of station. He came to know about the said transaction when his mother had shown him a letter dated 19th September, 2017 issued by P.I. of Shahapur Police Station. It is the contention of the petitioner that

he has been falsely implicated by the respondent No.2 as he was not at all involved in preparation of alleged bogus voting card and Aadhar Card. He was not responsible for presenting an impostor before the Sub-Registrar, Shahapur to execute the sale deed in question. The petitioner claims to be a student of final year Engineering. As such, the petitioner claims innocence.

11. The respondent No.2-original complainant has sworn an affidavit dated 21st February, 2023, duly notarized before the Notary. It is apposite to extract paragraphs 11 and 12 of the Affidavit, which are self-explanatory.

"11. I say and submit that I am a senior citizen aged 67 years having undergone heart surgery in December, 2020. I say that as a diligent citizen I have fulfilled my duty to register the F.I.R for the police to take cognizance of the offence and that the Respondent No.1 is investigating the matter and they have to file their investigation report. Thus, I do not wish to associate myself with the case any further.

12. In view of the young age of the Petitioner and on account of the fact that the Petitioner is a student, on humanitarian grounds alone I have no objection if the Petitioner alone is relieved from the said

F.I.R, if this Hon'ble Court considers it fit and proper. Needless to say that I continue to maintain that my complaint as filed was bona -fide and no allegation ought to be made against me by the Petitioner or any other Accused or the Authorities that I had filed a wrongful complaint".

In view of the said affidavit, the respondent No.2, only on the humanitarian ground alone, appears to have given his no objection for quashing of the F.I.R only *qua* the petitioner. It is clear that the respondent No.2 maintains that he wishes to continue as complainant against rest of the accused.

12. The petitioner has also filed his affidavit dated 22nd February, 2023 duly notarized before the Notary, wherein he states that at the time of the alleged incident, he was 20 years old and studying diploma course in Civil Engineering. He has annexed photostat copies of his birth certificate as well as his statement of marks in the Engineering College. He has also annexed photostat copy of his Aadhar Card, duly attested by him.

13. Respondent No.2 as well as the petitioner are present before us. On being questioned, respondent No.2 reiterates what is stated

by him in his affidavit. Learned Counsel for the respondent No.2 has identified the respondent No.2. Learned Counsel has also tendered a photo copy of the Aadhar Card of the respondent No.2, duly attested by him. The same is taken on record and the original Aadhar Card is verified by the learned A.P.P.

14. Considering the nature of dispute, the amicable settlement between the parties, affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of **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 petition.

15. The petition is accordingly allowed and the FIR bearing C.R. 482 of 2017 registered with Shahapur Police Station, District Thane and consequently, the proceeding pending before the Judicial Magistrate First Class, Shahapur being Criminal Case No.139 of 2018, are quashed and set aside, only against the petitioner, subject to the petitioner depositing costs of **Rs.50,000/-**. Out of **Rs.50,000/-**, **Rs. 25,000/-** to be deposited with "Sanvedana

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Charitable Trust, Sangli". Bank details of which are as under:

Account Name	Sanvedana Charitable Trust, Sangli
Bank Name	The Karad Urban Co-op. Bank Limited, Karad
Account Number	10 33 01 61 87 721
IFSC CODE NUMBER	KUCB0488033

and Rs. 25,000/- to be deposited with "Jeevan Sandhya Mangalya

Sansthan". Bank details of which are as under;

Name of Account	Jeevan Sandhya Mangalya Sansthan
Account Number	60134381699
Type of Account	Saving
Name of Bank	Bank of Maharashtra
Branch	Padgha
IFSC Code	MAHB0000189
PAN NUMBER	AATJ2015Q

The said costs to be deposited within four weeks from today.

16. We make it clear that the petitioner's father who is also an accused in the said crime shall not seek parity in future. We are inclined to quash the F.I.R *qua* the petitioner looking to the young age and his future prospects. It appears that he was not that mature to understand the gravity of the offence alleged to have been committed. Even the respondent No.2 has taken a sympathetic approach in respect of the petitioner.

17. As such, rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

18. Matter be listed for recording compliance regarding deposit of costs, on **29th March, 2023**.

19. In view the order passed in the aforesaid criminal writ petition, nothing survives for consideration in the Interim Application. Hence, Interim Application is disposed of.

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]