

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 420 OF 2023

1. Vyankatrao Pandurang Patil
Age-60 Occ-Business,
R/at Mauli Bunglow, Lakxhmi
Colony Old Ausa Road,
Latur-413531.Applicant/Accused.

Versus

1. The State Of Maharashtra
Haveli Police Station,
Pune.
2. Ulhas Shivajirao Gapat
Age- 49 yrs, R/at. Manik
Chowk, Osmanabad.Respondents

Mr. Abhishek Yende a/w. Mr. Saiprasad Hole i/by Yende Legal
Associates for the Applicant.

Mr. K.V. Saste, APP for the Respondent No.1/State.

Ms. Surbhi S. Agrawal for Respondent No. 2.

**CORAM : SUNIL B. SHUKRE AND
M.M. SATHAYE, JJ.**

Date : 28th APRIL, 2023.

JUDGMENT (Per M.M.SATHAYE, J.):

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 1/State. Learned Counsel for Respondent No.2/complainant waives service. Taken up for final hearing with consent of parties.

2. By this Application filed under section 482 of the Criminal Procedure Code, the Applicant / accused is seeking to quash by consent, a crime registered under FIR No.33 of 2019 registered with Haveli Police Station, Pune Gramin, for offences punishable under Sections 420 and 406 of the Indian Penal Code and consequent proceedings bearing RCC No. 400 of 2021 pending before 11th Jt. C.J.J.D and J.M.F.C., Pune.

3. Learned counsels for the Applicant and Respondent No. 2/ complainant jointly state that now the matter is amicably settled and Respondent No. 2 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime in this application.

4. Perusal of the FIR dt. 9/2/19 shows that it is alleged by the Resp. No. 2 / Complainant that during the period from February 2007 to December 2018, the Applicant has cheated him for large sum of money (about Rs. 60 lakhs) on false promise of joint-investment in land for big profits. It is alleged that Applicant has taken advantage of Resp. No. 2's trust and shown amounts taken from him for investment, as loan in balance sheets.

5. Perused the affidavit now filed and affirmed by Respondent No. 2 on 24th March 2023. It is stated therein that Applicant is related to him having strong family bond and misunderstanding had arisen between them due to financial transactions, which had led to filing of impugned FIR and criminal case. It is stated that with the intervention of the elders in family and well wishers, he has now settled the dispute with Applicant. It is further stated that he is withdrawing all allegations against the Applicant and consent terms have been executed and does not wish to continue with criminal proceedings.

6. Applicant & the Respondent No. 2 / complainant are present

personally today in the Court and are identified by their respective advocates. On our inquiry, they stated that they have settled the matter voluntarily, without any pressure or coercion.

7. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private and civil in nature arising out joint-investment in land, which is now settled. As such, this Court is of the considered view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed and the crime is quashed.

8. In the result, we pass following order:

(i) Criminal Application is allowed.

(ii) Impugned FIR No.33 of 2019 registered with Haveli Police Station Pune Gramin, and the consequent proceedings bearing RCC No. 400 of 2021 pending before 11th Jt. C.J.J.D and J.M.F.C., Pune are quashed and set aside, qua the Applicant.

(iii) This is subject to condition precedent that Applicant shall

deposit an amount of Rs. 15,000/- & Respondent No. 2 shall deposit Rs. 5,000/- within 4 weeks from today, in the account of High Court Legal Aid Fund (Account No. 60045304283 Bank Name: Bank of Maharashtra Branch: Fort Branch IFSC Code MAHB00000002).

(iv) It is clarified that if the amounts are not deposited as stipulated above, by any of the parties, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.

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

(vi) Stand over by 4 weeks, to be placed before Registrar (Judicial-II) for reporting compliance. Ld. Registrar to close the case, if this Order is complied.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)