

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

CRIMINAL APPLICATION NO. 641 OF 2023

1. Jayendra Babulal Kotecha
Aged about 54 Years
Occupation: Business
Residing at Room no.3
Devji Bhimji Lane, Mathuradas Road,
Shankar Lane, Kandivali West,
Mumbai – 400 067.
 2. Hitesh Mafatlal Shah
Aged about 50 Years
Occupation: Business
Residing at Flat no.A-601,
Nirmal Apartment, Shankar Lane,
Opp. Shankar Temple, Kandivali West,
Mumbai – 400 067.
- ... Applicants

Versus

1. The State of Maharashtra
(at the instance of Charkop
Police Station, Mumbai)
2. Kirit Himatlal Morvadiya
Aged about 48 years
Occupation: Business
Residing at:
Room no.E-701/702,
Agarwal Residency Building,

Shankar Lane, Kandivali West,
Mumbai – 400 067.

... Respondents

Mr N. M. Nadar for the Applicants.

Ms Pranothi B. Pawar for the Respondent No.2.

Mrs A. S. Pai, Govt. Pleader a/w Ms M. H. Mhatre, APP for
the Respondent No.1-State.

API – Bhushan Thoke, Investigating Officer.

PSI – Sunil Sonawane (Pairavi).

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

DATE : 7 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 Criminal Application, under Section 482 of the Code of Criminal Procedure, 1973, the Applicants seek to quash the FIR No. 108 of 2023, dated 11 April 2023, registered against them at Charkop Police Station, Mumbai, at the instance of Respondent No.2 for the offences punishable

under Sections 323, 384, 452, 504, 506(2) read with Section 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. At the outset, the learned counsel for Applicants and Respondent No.2, in unison, submitted that the dispute had been resolved amicably. They submitted that continuing the prosecution would serve no purpose, given the settlement between the parties. They argued that this case is covered by the Hon'ble Supreme Court's decisions in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

5. Learned APP representing Respondent No.1 submits that suitable orders may be passed.

6. The learned counsel for Respondent No.2 tendered a consent affidavit dated 11 June 2023. Respondent No.2 appeared in Court and stated that he has no objection to the quashing of the impugned FIR against the Applicants due to a settlement between them. Upon questioning, he confirmed the contents of his affidavit. His counsel identified him, and the learned APP has verified his original Aadhar Card, of which a

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

duly signed copy is placed on record.

7. After examining the present case in accordance with the 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 between the parties had been resolved amicably. As the complainant is no longer willing to support the allegations, continuing the prosecution would be an empty formality. In order to secure ends of justice, it would be appropriate in the given case that the impugned FIR is put to an end. The consent affidavit filed on behalf of Respondent No.2 support the prayer to quash the impugned FIR.

8. As we expressed our opinion, the learned counsel for the Applicants and Respondent No.2, on instructions, submitted that the Applicants and Respondent No.2 will pay costs of Rs.10,000/- to the Kirtikar Law Library, Mumbai. The statement is accepted as an undertaking given to this Court. We, therefore, direct each of the Applicants and Respondent No.2 to pay costs of Rs.10,000/- within three weeks of this order being uploaded.

9. Therefore, based on these facts, FIR bearing C.R. No.

108 of 2023 registered with Charkop Police Station, Mumbai, against the Applicants needs to be quashed and set aside. Accordingly, we allow this Criminal Application in terms of prayer clause (b) and quash and set aside the subject FIR bearing C.R. No. 108 of 2023 dated 11 April 2023 registered against the Applicants at Charkop Police Station, Mumbai.

10. Rule is made absolute in the above terms. Application is disposed of accordingly.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2023.07.13
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