

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

CRIMINAL APPLICATION NO. 1022 OF 2021

1. Sourabh B. Dani
2. Kanan Sourabh Dani ... Applicants

Versus

1. The State of Maharashtra
2. Prakash Laxman Gadag
3. Ravindra Laxman Gadag ... Respondents

Mr. Niranjan S. Mundargi i/b Mr.Satyam H. Nimbalkar, for the Applicants.

Mrs. P. P. Shinde, APP for the Respondent No.1– State.

Mr. M. S. Bhandari i/b Ms. Pranjali Bhandari, for the Respondent No.2.

Mr. Nitin Rathod, PSI, Vishrantwadi Police Station, Pune, present.

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

DATE : 20th JANUARY, 2023.

P. C. :

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of

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the parties and the Application is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No. 1–State and learned Counsel Mr. M. S. Bhandari waives notice on behalf of the respondent Nos. 2 and 3.

3 By this Application, preferred under Section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashing and setting aside of the FIR, bearing C.R.No. 376 of 2018, registered with the Vishrantwadi Police Station, Pune, for the alleged offences punishable under Sections 403, 405, 406, 420 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4 Perused the papers. The respondent Nos. 2 and 3 are the original complainants. According to them, the applicants were joint owners of the Apartment No.A-7 and A-8 in Patil Heritage Apartments, Shivajinagar, Pune. It is stated by the respondent Nos. 2 and 3 that they purchased the said flats from the applicants for a consideration of Rs.1,98,50,000/-, out of which an amount of Rs.99,50,000/- was agreed and fixed for Apartment A-7 to be

purchased by the respondent Nos. 2 and an amount of Rs.99,00,000/- was agreed and fixed for Apartment A-8 by the respondent No.2's brother. According to the respondent Nos. 2 and 3, despite paying the consideration, the applicants did not enter into a Sale Deed, pursuant to which, the respondent No.2 filed a private complaint in the Court of learned Judicial Magistrate, First Class, Khadki, Pune, against the applicants alleging the aforesaid offences on 28/08/2018. The learned Judicial Magistrate, First Class, Khadki, Pune, vide order dated 3rd September, 2019 passed an order under Section 156(3) of the Code of Criminal Procedure ('Cr.P.C.' for short), pursuant to which, the aforesaid FIR came to be registered with the Vishrantwadi Police Station. Admittedly, charge-sheet has not been filed till today.

5 In the interregnum, during the pendency of the aforesaid C.R., the parties amicably settled their dispute and decided to put a quietus to the same. Pursuant thereto, the parties executed Sale Deeds with respect to the said flats. We are informed that the possession has also been handed over to the respondent Nos. 2 and 3 in 2019 itself when the Sale Deeds were executed between the

parties. It also appears that the civil dispute has been withdrawn as against the applicants filed by the respondent Nos. 2 and 3.

6 Learned Counsel for the respondent Nos.2 and 3 states that consent affidavits have been filed by the respondent Nos. 2 and 3, which are at page No. 166 and 178 of the Application. A perusal of the said affidavits show that the parties have amicably settled their dispute and that the said respondents have withdrawn the Special Civil Suit, bearing No. 50 of 2019, instituted by them as against the applicants for specific performance of the contract, in view of the amicable settlement between the parties. It is also stated that pursuant to the execution of Sale Deeds and handing over of the possession of the flats, they have no grievance if the aforesaid C.R. is quashed and set aside.

7 The respondent Nos. 2 and 3 are present in the Court. On being questioned, they re-iterate what is stated by them in their affidavits. They are identified by their Counsel. Learned Counsel for the respondent Nos.2 and 3 has tendered photocopies of the Adhar Cards of the respondent Nos.2 and 3 duly attested by them.

The said photocopies are taken on record and the learned APP has verified the original Adhar Cards.

8 Considering the nature of dispute, which is predominantly civil in nature; the amicable settlement between the parties, the affidavits of the respondent Nos.2 and 3 and having regard to the judicial pronouncements of the Apex Court in the case **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 Application.

9 Accordingly, the Application is allowed and the FIR bearing C.R.No. 376 of 2018, registered with the Vishrantwadi Police Station, Pune, as against the applicants, is quashed and set aside.

10 The applicants to deposit a sum of Rs. 50,000/- with **Pasaydan Balvikas Foundation**, bearing Account No. 3775403155 (RTGS-NEFT), IFSC No. CBIN0285070 MICR : 400016138, as costs. The said cost to be deposited within three weeks from today.

¹ (2012) 10 SCC 303

² (2012) 10 SCC 303

11 Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

12 The above order is subject to costs being deposited as stated aforesaid.

13 List on 17th February, 2023, under the caption 'for compliance'.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.