

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2800 OF 2022**

Chirag Harshad Patel] **Petitioner**

vs.

1. The State of Maharashtra]

2. Gayatri Dhansingh Rawat] **Respondents**

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Mr. Rohan D. Kaiche, for Petitioner.

Mr. Y.M. Nakhwa, A.P. P, for Respondent No.1-State.

Mr. Nikhil Mallewar, for Respondent No.2.

Mr. Ganesh Kekan, A.P.I, Navghar Police Station, Thane.

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

DATE : 2nd February, 2023.

P.C.

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State and Mr. Mallewar, learned Counsel waives notice on behalf of the respondent No.2 (Original Complainant).

3. By this petition, preferred 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 F.I.R registered vide C.R. No.641 of 2021 with the Navghar Police Station, Thane, for the alleged offences punishable under sections 420 and 406 of the Indian Penal Code (for short "I.P.C") and consequently, the proceeding pending before the learned 4th Judicial Magistrate First-class, Thane being R.C.C No.3495 of 2021. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent No.2 (original complainant), she showed her willingness to purchase a "One Plus" mobile phone from the petitioner and pursuant thereto, made some down payment to him. It appears that the petitioner instead of purchasing "One Plus" mobile phone purchased an "Apple" mobile phone by using Bajaj Finance Card of the mother of the respondent No.2. As the mobile phone was not handed over to her, the respondent No.2 lodged the aforesaid complaint/F.I.R, as against the petitioner, alleging the aforesaid offences. After investigation, charge-sheet was filed in the said case and the case is

presently pending before the learned 4th Judicial Magistrate First-Class, Thane being R.C.C. No.3495 of 2021.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same.

6. We are informed that the petitioner's parents have paid an amount of Rs.1,10,000/- to the respondent No.2 by way of one time settlement. Today, learned Counsel for the respondent No.2 states that the consent affidavit has been filed by the respondent No.2 which is at page 63 of the petition. The said affidavit is dated 24th November, 2022 and is duly notarized before the Notary. In the said affidavit, the respondent No.2 has stated that since she has received Rs.1,10,000/- from the petitioner's parents by way of full and final settlement, she has no objection to the quashing of the F.I.R/proceeding, as against the petitioner. Respondent No.2 is present in person. On being questioned, she reiterates what is stated by her in the affidavit. She is identified by her Counsel. Learned Counsel for the respondent No.2 has also tendered a photo copy of the Aadhar Card of the respondent No.2 duly attested by her. The

same is taken on record and the original Aadhar Card is verified by the learned A.P.P. The learned A.P.P has also tendered a report of P.I. Prakash Masal attached to Navghar Police Station, Thane dated 2nd February, 2023. The same is taken on record. In the said report, it is stated that the petitioner has no antecedents.

7. Considering what is stated aforesaid, the nature of dispute, the amicable settlement between the parties, the affidavit of the respondent No.2 and the judicial pronouncements of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another¹** and **Narinder Singh and others Vs. State of Punjab and another²**, there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the F.I.R bearing C.R. No.641 of 2021 registered with the Navghar Police Station, Thane and consequently, the proceeding pending before the learned 4th Judicial Magistrate First Class at Thane being R.C.C No.3495 of 2021, are quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

9. The petitioner to deposit costs of Rs.2500/- with the **Central Police Welfare Fund bearing Account No.914010029005759, IFSC NO. UTIB0000060**. The said costs to be deposited within three weeks from today.

10. Rule is made absolute in the aforesaid terms. The petition is disposed of accordingly.

11. Stand over to **2nd March, 2023**, for recording compliance of the said deposit of costs.

12. The petitioner to produce his bank statement evidencing deposit of costs of Rs.2500/- with the Central Police Welfare Fund on 2nd March, 2023.

13. Parties to act upon the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]