



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

CRIMINAL WRIT PETITION NO. 3755 OF 2022

1. Sumit Sunil Bagade
Age 23 years, Occ: Student
Flat No.2, Saibhavan Building,
Dholevasti, Gavde Road,
Ghorpadi.
2. Omkar Nitin Vatare
Age 23 years, Occ: Student
Bungalow No.43,
Palmgrow Society,
Gavde Road, Mundhwa,
Pune.
3. Om Milind Vatare
Age 20 years, Occ: Student
Bungalow No.43, Palmgrow Society,
Gavde Road, Mundhwa,
Pune.
4. Sanjay Shankar Shigwan
Flat No.102, Ashwamedh Heights,
Abhinav College Road, Pune

...Petitioners

Versus

1. The State of Maharashtra
Through Saswad Police Station
Pune.

2. Nawaz Ayaz Sheikh

Age 25 years, Occ: Job

r/at: Somjivasti, Chandtara Chowk,

Kondhwa, Pune.

3. Urban Realty

(through its owner)

Mr Pankaj Amritlal Navlakha,

Age 42, Occ: Business,

r/at Audumbar Society, Bibewadi,

Kondwa Road, Pune – 411037.

... Respondents

Ms Vritee S. Soni for Petitioners.

Mr J.P. Yagnik, APP for the State.

Ms. Vibha Joshi for Respondent Nos.2 & 3.

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

DATE : 12 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. The Petitioners have filed this Criminal Writ Petition

under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR bearing C.R. No. 360 of 2021 dated 16 September 2021 registered with Saswad Police Station, Pune, for the offence punishable under Section 379 of the Indian Penal Code. The Petitioners seek quashing on the ground that they have amicably settled their dispute.

4. The facts of the case which gave rise to the FIR are that respondent No.2 is employee (security guard) of respondent No.3. It is alleged in the FIR that an office site container was stolen from the premises.

5. When this Criminal Writ Petition was placed before us, the learned counsel for the Petitioners and Respondents No.2 and 3, jointly stated that the parties have settled their dispute amicably and Respondents No.2 and 3 do not want to proceed further. They have filed the Consent Terms executed between the parties. They submitted that this case falls under the purview of the law laid down by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

6. One Mr Santosh Dattatraya Sapkal who is the owner of the allegedly stolen container has filed his affidavit. Respondent No.3, Partner of the firm, has also filed consent affidavit on record stating that due to misconception on the part of his employee, FIR was lodged and that he has no objection to quash the impugned FIR against the Petitioners. Respondent No.2-Complainant has also filed affidavit stating that due to misunderstanding he has lodged the FIR and that he has no objection to quash the same. Upon questioning, they reiterated the contents of their affidavit and were identified by their counsel.

7. We have examined present case in light of the law laid down by the Hon'ble Supreme Court in the case of ***Gian Singh and Narinder Singh (supra)***. Considering the fact that FIR was the result of misconception, no purpose would be served by continuing the criminal prosecution. To ensure justice is served, it would be appropriate to quash the impugned FIR. The consent affidavits filed on behalf of Respondents No.2 and 3 support the prayer of quashing of the FIR. Having said so, and on the facts noted above, the impugned FIR No.360 of 2021, registered with Saswad Police Station, Mumbai, against the Petitioners needs to be quashed

and set aside. Accordingly, the impugned FIR and the proceedings arising therefrom are quashed and set aside, subject to condition that Petitioners to pay a cost of Rs.5,000/- each to Kirtikar Law Library, High Court, Mumbai, within three weeks of this order being uploaded.

8. Rule is made absolute in these terms and this Petition is disposed of subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.