

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2676 OF 2023

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Shubham Agarwal & Ors.

..Petitioners

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Saurabh Oka, for the Petitioners.

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

Ms. Tanvi Kamat Deosthale, for the Respondent No.2.

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

DATE : 10th AUGUST, 2023

PC.

1. The prayer is for quashing of the FIR being Crime No. 232 of 2023 registered with Bhayander Police Station for the offence under Sections 109, 143, 336, 427 and 447 of the IPC.

2. The genesis of the offence is based on unauthorized demolition carried out by the petitioners.

3. The respondent No.2/complainant is present in the Court and has already tendered consent affidavit sworn on 5th August, 2023 stating that the respondent No.2 is secretary of the Co-operative Housing Society. He has further stated that the petitioners and the office bearers of the respondent society have

interacted and have decided to resolve their dispute. The petitioners have assured to reconstruct the wall which was demolished in the in their property along with toilet. He has informed that in view of aforesaid undertaking given by the petitioners as reflected in the communication dated 25th July, 2023 addressed to the police station which is produced along with the copy of petition at Annexure-B. The respondent No.2/complainant has stated that he is authorized to extend consent for quashing. He has also produced copy of the resolution authorizing him to extend consent. The contents of the consent affidavit, particularly, paragraphs 6 and 7 are not disputed by counsel for the petitioners and on instructions from the petitioners has undertaken before this Court that petitioners shall abide by what has been stated in the aforesaid both the paragraphs.

4. In the aforesaid background and having regard to the fact that the complainant is present in the Court and has consented for quashing out of his own free will, no purpose will be served in keeping the proceedings pending against the petitioners.

5. That being so, the petition stands allowed in terms of prayer clause (a) subject to payment of cost of Rs.50,000/- to be paid by each of the petitioners within period of four weeks to Pasaydan Balvikas Foundation (*Central Bank of India, Account No.3775403155, IFSC Code: CBIN0285070*) and copy of the payment of cost be produced before the Registry within same period, failing which the order of quashing the proceedings shall

stand automatically revived and this Court will be constrained to proceed against the petitioners in accordance with law.

6. With the above observations, the petition stands disposed of.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]