

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 919 OF 2022**

Vishwajeet Subhash Jhavar & Ors.

.. Petitioners

vs.

The State of Maharashtra & Ors.

.. Respondents

WITH**INTERIM APPLICATION NO. 2842 OF 2022****IN****CRIMINAL WRIT PETITION NO. 919 OF 2022**

Kishor Vishwas Patil

.. Intervenor

In the Matter Between

Vishwajeet Subhash Jhavar & Ors.

.. Petitioners

vs.

The State of Maharashtra & Ors.

.. Respondents

Mr. Amit Gharte for the Petitioners.

Ms. Mahalakshmi Ganpathy APB for the Respondent Nos.1 & 2-State.

Mr. Mahendra N. Sandhyanshiv i/b Mr. Swarup Patil for Respondent No. 3.

Mr. Sachin Kadam, Head Constable, Vimantal Police Station, Pune is present.

**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 2nd NOVEMBER, 2023.****P C.:-**

1) Leave to amend to incorporate challenge to R.C.C. No.1722 of 2021, pending on the file of Judicial Magistrate First Class, 5th Court, Shivajinagar, Pune, in the prayer clauses of the Writ Petition is granted.

Amendment to be carried out forthwith and in any event during the course of the day.

2) Petitioners, accused in R.C.C. No.1722 of 2021, pending on the file of Judicial Magistrate First Class, 5th Court, Shivajinagar, Pune, arising out of C. R. No. 572 of 2020, registered with Vimantal Police Station, Pune, for the offence punishable under Sections 3, 5 & 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, have invoked jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of Criminal Procedure Code, for quashing of the said crime, with the consent of Respondent No. 3, the informant and other 11 victims of the crime.

3) Learned Advocate for the Petitioners submitted that, the Petitioners and Respondent No. 3 have resolved their disputes and differences and have executed settlement Agreement dated 11th May, 2022. That Respondent No. 3, has also executed an Affidavit dated 18th May, 2022 and an Additional Affidavit dated 25th August, 2023 and has given his consent for quashing the crime in question.

4) Learned Advocate for Respondent No. 3, on instructions conceded to the fact of filing of the said Affidavit dated 18th May, 2022 and an Additional Affidavit dated 25th August, 2023. In para No. 5 of the Additional Affidavit, the Respondent No. 3 has given his no objection for quashing of the present crime.

Respondent No. 3 is personally present in the Court and

through his learned Advocate reiterates the contents of his Additional Affidavit dated 25th August, 2023 and 'no objection' for quashing of the crime in question.

5) On the earlier date of hearing, it was pointed out to us by the prosecution that, there are 11 other victims. We therefore had directed the Petitioners to bring their consent also for quashing of the present crime. The other 11 persons/victims have also filed their Affidavits in the present proceedings, stating that, they have 'no objection' for quashing of the present crime.

Learned APP, on instructions from Mr. Sachin Kadam, Head Constable attached to Vimantal Police Station, Pune, submitted that, these 11 persons are the only victims in the present crime and there are no other victims left with whom the Petitioners have not settled the matter amicably. The said statement is accepted.

6) In view thereof, we are inclined to quash R.C.C. No.1722 of 2021, pending on the file of Judicial Magistrate First Class, 5th Court, Shivajinagar, Pune, arising out of C. R. No. 572 of 2020, registered with Vimantal Police Station, Pune.

6.1) As we expressed our opinion for quashing of said R.C.C. No.1722 of 2021, pending on the file of Judicial Magistrate First Class, 5th Court, Shivajinagar, Pune, learned Advocate for the Petitioners, on

instructions submitted that, the Petitioners will pay a cost of Rs.2,50,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of three weeks from the date of uploading of the present Order. The said statement is accepted as an undertaking given to this Court.

6.2) We direct the Petitioners to pay a cost of Rs.2,50,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of three weeks from the date of uploading of the present Order on the official website of Bombay High Court.

6.3) The details of the bank Account for payment of cost are as under:

Account Name : Advocates Association of Western
India Generation Next.

Account Number : 000110110007807.

Bank Name : Bank of India.

Branch Name : Mumbai Main.

IFSC Code : BKID0000001.

6.4) The Petitioners to deposit the said cost of Rs.2,50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

7) In view of the above and subject to payment of cost, Petition is allowed in terms of prayer clause (a) and amended prayer clause (a.1)

8) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the Trial Court will proceed with the said case expeditiously.

9) List the Petition on board on 5th December 2023, under the caption 'for reporting compliance' of present Order.

10) In view of disposal of Writ Petition, Interim Application No. 2842 of 2022 pending therein, does not survive and is accordingly disposed off.

11) All the concerned to act on the basis of an authenticated of this Order.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)