

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

CRIMINAL WRIT PETITION NO. 4514 of 2022

Mr Rahul Sudesh Sharma

Age about 31 years

r/at: Room No.1,

Building No.6 New Mahakali Nagar,

Marve Cross Road, Malad (West)

Mumbai 400095

... Petitioner

Versus

1. The State of Maharashtra & anr.

Through Sr.Inspector

Nirmal Nagar Police Station

2. Mohd. Kashif Shaikh

Age about 21 years

Shop No.155, Back Side of Room No.4,

Kherwadi Road, Railway Colony,

Bandra (East), Mumbai 400051.

... Respondents

Mr Mihir Desai, Sr. advocate a/w. Rishika Agarwal i/b
Ravishankar Dwivedi for the Petitioner.

Mr Subodh Santi for respondent No.2.

Ms M H Mhatre, APP for the State.

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

DATE : 13 JULY 2023

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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 Petitioner has filed this Criminal Writ Petition under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks to quash FIR bearing C.R. No.170/2017 registered at Nirmal Nagar Police Station, Mumbai, against him, for the offences punishable under Sections 420, 465, 467, 468, 471, 507 r/w 34 of the Indian Penal Code, and the proceedings arising from it. The petitioner seeks quashing on the ground that they have amicably settled their dispute.

4. The petitioner is accused of taking Rs.4,43,000/- from the Complainant with the assurance of securing admission to a specific college.

5. The record shows that Respondent No.2 has filed consent affidavit on record. He is present before the Court

and states that he has no objection to quash the impugned FIR against the Petitioner as he has received the agreed amount in full and final settlement as per the consent terms from him. Upon questioning, he reiterates the statement in his affidavit and was identified by his counsel.

6. 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 parties have arrived at a compromise, no purpose would be served by continuing the criminal prosecution. To ensure justice is served, it would be appropriate to quash the impugned FIR qua the Petitioner. The consent affidavit filed on behalf of Respondent No. 2 supports the prayer of quashing of the FIR. Having said so, and on the facts noted above, the impugned FIR bearing C.R.No. 170/2017, registered with Nirmal Nagar Police Station, Mumbai against the Petitioner needs to be quashed and set aside. Accordingly, the impugned FIR bearing C.R. No.170/2017 and the proceedings arising from it qua the Petitioner are quashed and set aside, subject to condition that Petitioner to deposit a cost of Rs.25,000/- with Kirtikar Law Library within three weeks of this order being uploaded.

7. 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.