

CRIMINAL WRIT PETITION NO. 4570 OF 2022

Versus

(Respondent No.2 is present in Court).

Date : 20th APRIL, 2023.

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 1/State. Learned Counsel for Respondent No.2/complainant waives service. Taken up for final hearing with consent of parties.

2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Criminal Procedure Code, the Petitioners, who are co-accused in FIR are seeking to quash by consent, a crime registered under FIR No. 816 of 2022 registered against them by complainant / Respondent No. 2 with Waliv Police Station Vasai Virar, for offences punishable under Sections 420, 465, 467, 479 read with Section 34 of the Indian Penal Code.

3. Learned counsels for both the Petitioners and Respondent No. 2/ complainant jointly state that now the matter is amicably settled and Respondent No. 2 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime in this petition.

4. Perusal of the FIR dated 12th August, 2022 shows that it is the case of the Respondent No.2 that he is engaged in business of construction at Meera Road and his father had purchased one landed property from father of Petitioner Nos. 2 and 3 for valuable consideration. It is alleged that after the demise of father of

Petitioner Nos. 2 and 3, he has paid further amount to Petitioner No. 3. It is further contended that the said property is purchased by him from his father. It is alleged that when the Respondent No. 2 went for inquiry about change in the 7/12 extract of the said land, he came to know that Petitioner No. 1 has purchased the property from Petitioner Nos. 2 and 3 under a forged document and thus an attempt of land grabbing has been made. On these allegations the the impugned FIR came to be filed.

5. Perusal of affidavit now affirmed by Respondent No. 2 on 19th April, 2023 shows that the Petitioner Nos. 2 and 3 had filed a suit in the Civil Court At Vasai in which Respondent No. 2 & present Petitioner No. 1 were made party defendants, claiming certain reliefs, in which now the matter is amicably settled and consent terms have been executed and filed on 31st March, 2023. It is further stated that the consent terms are accepted by the concerned Civil Court and an order has been passed disposing of the Suit. It is further stated that in consonance with the said consent terms the Respondent No. 2 is now consenting for quashing of impugned FIR since all the disputes in respect of the subject matter land which has

given rise to the present FIR, have been resolved against all the accused including present Petitioners.

6. The Respondent No. 2 / complainant is present personally today in the Court and is identified by his advocate. On inquiry, he stated that he has settled the matter voluntarily, without any pressure or coercion and that consent terms are already filed in civil suit.

7. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private and civil in nature arising out sell/purchase of landed property which is already settled under Order of the Civil Court. As such, this Court is of the considered view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed and the crime is quashed.

8. In the net result, we pass following order:

(i) Writ Petition is allowed.

- (ii) Impugned FIR No. 816 of 2022 registered with Waliv Police Station (Vasai Virar) against the Petitioners, for offences punishable under Sections 420, 465, 467, 479 read with Section 34 of the Indian Penal Code and all the subsequent proceedings therefrom are quashed and set aside.
- (iii) This is subject to condition precedent that Petitioners together shall deposit an amount of Rs. 10,000/- & Respondent No. 2 individually shall deposit Rs. 10,000/- within 4 weeks from today, in the account of High Court Legal Aid Fund (Account No. 60045304283 Bank Name: Bank of Maharashtra Branch: Fort Branch IFSC Code MAHB0000002).
- (iv) It is clarified that if the amounts are not deposited as stipulated above, by any of the parties, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.
- (v) Rule is made absolute in the above terms. No order as to costs.

- (vi) Stand over by 4 weeks, to be placed before Registrar Judicial
(II) for reporting compliance. Ld. Registrar to close the case, if
this Order is complied.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)