

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1014 OF 2022**

1. Pratik Sharad Kulkarni	]	
2. Nitin Awadesh Gupta	]	
3. Radhika Kulkarni	]	
4. Rohini Kulkarni	]	Applicants

Vs.

1. The State of Maharashtra	]	
2. Mili Francis Fernandes	]	Respondents

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Mr. Anand Mishra i/b Mr. Sushil Upadhyay, for Applicants.

Mr. Y.M. Nakhwa, A.P.P, for Respondent No.1-State.

Ms. Pravada Raut, for Respondent No.2.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 31st JANUARY, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]:

1. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, application is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1-State. Ms. Raut, learned Counsel waives notice on behalf of respondent No.2.

5. By this application under section 482 of the Code of Criminal Procedure, 1973, (for short "Cr. P.C"), the applicants seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.773 of 2022 with Mahim Police Station, Mumbai, for the alleged offences punishable under sections 406, 409, 419, 420, 467, 120 (B) and 506 (2) of the Indian Penal Code (for short "I.P.C"). Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as follows.

7. Respondent No.2 is a senior citizen. Applicants No.1 and applicant No.3 are husband and wife. Applicant No.4 is the mother of applicant No.1. Applicant No.2 is the partner/friend of applicant No.1.

8. Respondent No.2 had lodged a report on 7th June, 2022 alleging that applicant No.1 along with applicant No.2 lured her to make investment in the market through them and assured her that she would get a very good deal and earn profit to the extent of 35 to 40%. Respondent No.2 believed their representation and invested an amount of Rs.25,000,00/-.

9. It is alleged that applicant No.1 had given her a post-dated cheque of Rs.25,00,000/-. Applicant No.1 thereafter, again took Rs.8,00,000/- from respondent No.2 on the pretext of his daughter's operation. The applicants, however, did not return any amount to respondent No.2, as assured.

10. The post-dated cheque given by the applicants was dishonoured on 18th May, 2022. One Subir Paul and her son Aditya called applicant No.1 to Andheri (East) in the office of Advocate Abshishek Gupta on 21st May, 2022 for taking back the invested amount. Thereafter, one Akshay Sapre, Ankita Fernandes (daughter of respondent No.2), Radhika Pratik Kulkarni and Rohini Sharad Kulkarni reached over there. Applicant No.3-Radhika Kulkarni pushed and assaulted Ankita - daughter of respondent

No.2. She quarreled with her son Aditya and thereafter threatened to kill him. It is further alleged that applicant No.1 - Pratik Kulkarni admitted that he had committed fraud and forgery by stating that he had invested the said amount in the company viz. "Goodluck Trillion Dollar LLP" which is owned by his friend, applicant No.2 - Nitin Awadesh Gupta. Nitin's wife - Ruchi Gupta and applicant No.3 - Radhika Kulkarni are partners of the said Company.

11. On 27th May, 2022, applicant No.3-Radhika Kulkarni had lodged a false report of outraging her modesty against the son of the respondent No.2. Respondent No.2, therefore, lodged the aforesaid report against the applicants.

12. On the basis of the said report, an F.I.R came to be registered against the applicants, as above.

13. The parties have now decided to give a quietus to the dispute, in pursuant to which, respondent No.2 has filed her affidavit dated 14th November, 2022, duly affirmed before the Assistant Registrar High Court, Appellate Side, Bombay. For ease reference, paragraphs 3 to 5 of the said affidavit are reproduced hereinbelow;

"3. I say that the matter/case pertains to the financial transaction which has been resolved peacefully and amicably between us. I say that I'm an aged lady who has witnessed the sudden and sad demise of my husband and have been going through financial crisis and hence we have settled the dispute amongst us in the interest of justice and in the interest of peace and harmony to prevail in society.

4. I say that I have already received an amount of Rs.12,01,000/- by Demand Draft bearing No.000616 dated 11/07/2022 and an amount of Rs.14,36,210/- by Demand Draft bearing No.155467 dated 15/09/2022 as decided between us vide consent terms dated 19/07/2022. I say that I have received the entire amount as alleged in the present FIR. The Applicants have paid the amount as agreed in the consent terms and hence the dispute has been resolved between the parties.

5. Further I say that the dispute which is the subject matter of the Complaint between the Applicants and me is private in nature and, I am the only aggrieved party in the said dispute, and have agreed to mutually settle the said dispute. That no part or fraction of the society has been affected or aggrieved from the alleged offences which form the subject matter of the said complaint".

Since respondent No.2 does not wish to proceed further with the F.I.R, she has requested for quashing the same.

14. Respondent No.2 is present in the Court. On being questioned, she reiterates what is stated by her in her affidavit. Learned Counsel appearing for respondent No.2 has tendered photostat copy of her Aadhar Card duly attested by her. The same is taken on record. Learned Counsel for respondent No.2 has identified her. Learned A.P.P has verified her original Aadhar Card.

15. *Prima facie*, we are of the opinion that no offence under Section 409 of the I.P.C is made out in the facts, against the applicants. Be that as it may, even otherwise, having regard to the nature of the dispute, the amicable settlement between the parties, the affidavit of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another¹** and **Narinder Singh and others Vs. State of Punjab and another²**, there is no impediment in allowing the application.

16. Accordingly, we allow the application and quash the F.I.R bearing C.R. No.773 of 2022 registered with Mahim Police Station, Mumbai, as against the applicants.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

17. The applicants to deposit costs of Rs.25,000/- with the **Janaseva Foundation**. Bank details are as under:

Name of Account	Janaseva Foundation
Account No.	20076764639
Account Type	Saving Account
Name of Bank	Bank of Maharashtra
Address	Bank of Maharashtra, 104, Navi Peth, L.B.S Road, Pune - 411 030.
Branch Name	Navi Peth, Pune
IFSC CODE	MAHB0000102
SWIFT CODE	MAHBINBBOCP
MICR NO.	411014031

The said costs to be deposited within four weeks from today.

18. Rule is made absolute in the aforesaid terms subject to the applicants depositing costs, as stated above. Application is disposed of accordingly.

19. Matter to be kept for recording compliance regarding deposit of costs, on **8th March, 2023**.

20. All parties to act upon an authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]