

UDAY
SHIVAJI
JAGTAP
Digitally
signed by
UDAY
SHIVAJI
JAGTAP
Date:
2023.01.23
19:03:05
+0530

Uday S. Jagtap

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

CRIMINAL WRIT PETITION NO. 4697 OF 2022

1. Baburam Prithavipal Gupta
2. Vidyawati Baburam Gupta
3. Ashok Baburam Gupta
4. Rajkumar Baburam Gupta
5. Sunil Dhanai Gupta
6. Sudama Sunil Gupta
7. Mukesh Mithailal Gupta
8. Badama Mukesh Gupta
9. Kalavati Rajaram Gupta .. Petitioners

Vs.

1. The State of Maharashtra
2. Ramanand Rambali Singh .. Respondents

.....

Mr. Ashok Mishra for the petitioners

Mr. Y.M. Nakhwa, APP for the respondent – State

Mr. Sachhidanand Singh for the respondent no.2

.....

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

DATED : 16th JANUARY, 2023.

ORDER : (Prithviraj K. Chavan)

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith. With the consent of the parties the petition is taken up for final disposal. Mr. Yagnik, learned APP waives service on behalf of respondent No. 1- State. Mr. Singh, waives notice on behalf of the respondent no.2.
3. By this petition, preferred under Section 482 of the Code of Criminal Procedure, 1973, the petitioners seek quashing of the FIR bearing C.R. No. 2 of 2011 dated 03.01.2011 registered with the Vakola Police Station and consequently proceeding in Case No.568/PW/2012, pending before the Metropolitan Magistrate, 71st Court, Bandra, Mumbai for the alleged offences punishable under Sections 452, 323, 143, 146, 147, 149 r/w 34 of the Indian Penal Code.
4. The prosecution story in short is as under.
5. Respondent – Ramanand Rambali Singh, lodged a report with Vakola Police Station on 03.01.2021 stating that he is RTO Agent.

He had purchased a Flat in the year 2002. Since he was in need of money, he decided to sell the said flat to Smt. Vidyawati Baburam Gupta and Rajkumar Baburam Gupta i.e. petitioner nos. 2 and 4 and accordingly he sold the flat to the said petitioners in the year 2008 for a consideration of Rs.35 lacs. However, he could not get the entire consideration of sale as an amount of Rs.21,70,000/- was due from the petitioners. On the account of the same, there was dispute between the parties and, therefore, he lodged the aforesaid FIR for the alleged offences.

6. It is alleged that on 31.12.2010, Rajkumar Gupta had lodged a false report against him stating that he had forcibly taken the possession of the said flat and, therefore, lodged a report against him and his wife Savitri Singh at Vakola Police Station. The respondent no.2 was arrested by the police and subsequently released by the Magistrate's Court.

7. On 03.01.2011 at 11.00 a.m., when the respondent no.2 was in the said flat along with his wife and daughters, the petitioners forcibly committed trespass in the flat and had assaulted him and his family members. They forcibly dispossessed the respondent no.2

and his family members from the said flat and, therefore, he lodged a report.

8. The parties have filed consent terms. They have amicably settled their dispute and have no objection for quashing the FIR. Learned Counsel for the respondent no.2 has tendered an affidavit of the respondent no.2 dated 16.01.2023 duly notarized before the Notary. The said affidavit is taken on record. In the said affidavit, the respondent no.2 has stated that he has no objection for quashing of the proceeding initiated at his behest, in view of the amicable settlement between the parties.

9. The respondent no.2 is present in person. On being questioned, he reiterates the contents of his affidavit. The learned Counsel for the respondent no.2 has tendered a photocopy of the Aadhar Card of the respondent no.2, duly attested by him. The same is taken on record. Learned Counsel appearing for the respondent No.2 has identified the respondent no.2 and the learned A.P.P has verified the original Aadhar Card of the respondent no.2.

10. Having regard to what is stated aforesaid, the amicable settlement between the parties, respondent no.2's affidavit and the

judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr.**², there is no impediment in allowing the petition.

11. Accordingly, the petition is allowed and C.R. No. 2 of 2011 registered with the Vakola Police Station, Mumbai and consequently, the proceeding pending before the Metropolitan Magistrate, 71st Court, Bandra, Mumbai bearing Case No.568/PW/2012 quashed and set aside.

12. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

13. All concerned to act on the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466