

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4005 OF 2022

Harshad Ratilal Soni and Ors. ... Petitioners.

Versus

The State of Maharashtra and Anr. ... Respondents.

— —
Mr. Bhushan Deshmukh, for the petitioners.
Mr. J.P.Yagnik, APP for the Respondent-State.
Mr. Sachin Pandey, for Respondent No.2.
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**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : June 06, 2023.

ORDER (Per : Sharmila U. Deshmukh, J.):

1. By this petition, the Petitioners seek quashing of the FIR being C.R.No. 238 of 2019, registered with Oshiwara Police Station, Andheri, Mumbai for the alleged offences punishable under Sections 420, 406 read with 34 of the Indian Penal Code, 1860, and also Misc. Case No.700 of 2019 arising out of the said crime, which is pending before the learned Additional Chief Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai. The quashing is sought on the

premise that the dispute has been settled between the parties and also as against the accused no.2, “B” summary report has been filed and only the Petitioners have been chargesheeted.

2. Learned counsel appearing for the Respondent No.2 has tendered the consent-affidavit of Respondent No.2 dated 13th October, 2022, to which the Aadhaar Card of the Respondent No.2 is annexed. He would further submit that the Respondent No.2 has no objection to the petition being allowed.

3. Perused the proceedings. It is alleged that the Petitioner Nos.2 and 3 herein, had approached the complainant and offered for sale two flats in their building, as against which the complainant had paid a sum of Rs.2,96,24,000/- to the Petitioners. It is further alleged that subsequently, the Respondent No.2 realized that one of the flat is also being sold to two more persons, and as such, the Respondent No.2 has lodged the subject FIR.

4. Perusal of the consent affidavit filed by the Respondent No.2 indicates that the parties have settled the dispute and the Respondent No.2 has no further grievance in the matter. The Respondent No.2 is present in-person in the Court and has reiterated

her consent to the quashing of the proceedings as against the Petitioners. The Respondent No.2 is identified by her counsel and through her Aadhaar Card.

5. Having regard to the nature of the dispute between the parties and the settlement which has been arrived at between the parties, we deem it appropriate to allow the petition, as the continuation of the criminal proceedings would be an exercise in futility and hence, we pass the following order.

ORDER

(a) The FIR being C.R.No.238 of 2019, registered with Oshiwara Police Station, Andheri, Mumbai, and the chargesheet filed in Misc. Case No.700 of 2019 and the Misc. Case No.700 of 2019 arising out of the said crime, which is pending before the learned Additional Chief Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai are hereby quashed and set aside subject to the payment of costs of Rs.25,000/- each to be paid by the Petitioners and Rs.15,000/- by the Respondent No.2-Complainant.

(b) The costs to be deposited in the account of Central Police Welfare Fund, Director General, M.S. Mumbai, (Account No.914010029005759, IFSC Code-UTIB0000060, Axis Bank, Worli, Mumbai (MH)], within a period of four weeks from today and the receipt evidencing the payment of costs to be filed with the Registry in the present petition.

(c) Needless to clarify that if the costs as directed above are not paid within the prescribed period, the above order shall stand automatically recalled and the petition to be listed for directions within one week thereafter.

(d) List the petition for compliance after five weeks.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]