

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

CRIMINAL WRIT PETITION NO.1635 OF 2023

Ashish Bimal Jhunjhunwala & Anr. ..Petitioners
Versus
The State of Maharashtra & Anr. ..Respondents

**WITH
CRIMINAL APPLICATION NO.40 OF 2023**

Shri. Richards Fernandes & Anr. ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. K. M. Tripathi, for the Petitioners in WP/1635/2023.
Mr. Rahul Arote, for the Applicants in APL/40/2023.
Mr. J. P. Yagnik, APP for the Respondent/State.
Mr. Somesh Gandhi, for the Respondent No.2.

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

DATE : 10th AUGUST, 2023

PC.

1. The prayer is for quashing of the FIR bearing No.794 of 2022 registered with Mulund Police Station for an offence under Sections 406, 420 r/w 34 of IPC.

2. The genesis of the offence is, the respondent/complainant claimed to have lured by the accused persons who insisted the complainant to invest in real estate and accepted amount of Rs.40,00,000/- in 2017.

3. Neither the immovable property was delivered nor the amount. As such, the offence in question.

4. The respondent No.2/complainant has placed on record consent affidavit dated 15th December, 2022 thereby extending consent for quashing. According to counsel for the respondent No.2/complainant, a settlement was arrived on 5th November 2022 and the respondent No.2/complainant has received an amount of Rs.40,00,000/- in two installments. In this background, it is claimed that respondent No.2/complainant is extending consent out of her own free will. The identity of the respondent No.2/complainant is verified by learned APP through her Aadhaar Card, so also, counsel representing her interest identified her. The respondent No.2/complainant further admits contents of the affidavit thereby extending her consent for quashing against the petitioners. In view of above, no purpose will be served in keeping the proceedings pending against the petitioners, so also, applicants.

6. In view of law laid down by the Apex Court in the matter of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***(2012)10 SCC 303*** and ***Narinder Singh & Ors. Vs. State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***, we deem it appropriate to allow the petition, so also, the application.

7. The petition, so also, the application stand allowed subject to payment of cost of Rs.50,000/- to be paid by each of the

petitioners, so also, the applicants to the Association of Parents and Mentally Retarded Child (*State Bank of India, Account No.00000010884930648, IFSC Code: SBIN0009056*) within period of four weeks and copy of the payment of cost be produced before the Registry within same period, failing which the order of quashing the proceedings shall stand automatically revived and this Court will be constrained to proceed against the petitioners, so also, the applicants in accordance with law.

8. With the above observations, the petition so also the application stand disposed of.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]