

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

CRIMINAL WRIT PETITION NO.332 OF 2023

Vinay Jain ...Petitioner
Versus
1. State of Maharashtra
2. Rakesh Mehta ...Respondents

Ms. Indira Labde a/w Mr. Harsh Pathak, for the Petitioner.

Ms. P. P. Shinde, A.P.P for the Respondent No.1– State.

Mr. Samarth Chowdhary i/b M/s. Indus Law, for the Respondent No.2.

PSI – R. S. Gund, Tardeo Police Station, Mumbai, is present.

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

DATE : 17th JANUARY 2023

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Mr. Chowdhary,

waives notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, the petitioner seeks quashing of the FIR bearing C.R. No. 678 of 2022, registered with the Tardeo Police Station, Mumbai, for the alleged offences punishable under Sections 380, 454, 457 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. According to the complainant/respondent No.2, the petitioner, a developer and in construction business broke open his flat by sending some people. Pursuant thereto, the aforesaid complaint was lodged by the respondent No.2, as against the petitioner, alleging the aforesaid offences. The said incident is alleged to have taken place on 28th September 2022 at 6:15 p.m. In the said FIR, it is alleged that articles worth Rs.16,000/- were stolen. It appears that the articles allegedly

stolen are, two iron windows in the hall; three electric switchboards in the hall; two iron windows and one light switchboard in bedroom No.1; four iron windows in bedroom No.2; one iron window and one electric switch; one electric switch and one basin; one iron window, electric power set, and a tap in bathroom No.2.

5. During the pendency of the investigation of the aforesaid case, the parties amicably settled their dispute and decided to put a quietus to the same. Accordingly, the learned counsel for the respondent No.2 has tendered an affidavit of the respondent No.2 dated 19th November 2022, 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 to the quashing of the aforesaid C.R. registered at his behest. Respondent No.2 is present in Court. On questioning, he re-iterates what is stated by him in his affidavit. Learned counsel for the respondent No. 2 has tendered a self attested photocopy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent

No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

6. Both, the learned counsel for the petitioner as well as the learned counsel for the respondent No.2, on instructions of their respective clients, state that they have withdrawn all allegations made by each, against the other.

7. Considering the nature of dispute, the amicably settlement between the parties, the affidavit of the respondent No.2, there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR bearing C.R. No. 678 of 2022, registered with the Tardeo Police Station, Mumbai, is quashed and set-aside.

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

10. The petitioner to deposit a sum of Rs. 25,000/-, with the **Pasaydan Balvikas Foundation bearing Account No. 3775403155, IFSC No. CBIN0285070**, as costs. The said costs to be deposited within three weeks from today.

11. Stand over to **21st February 2023**, for recording compliance of the said deposit of costs.

12. Learned Counsel for the respondent No.2 to file his Vakalatnama, if not filed, on behalf of the said respondent, in the registry, within two weeks of uploading of this order.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.