

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.39 OF 2023**

- | | | |
|-----------------------------------|---|-------------|
| 1. Ali Mohammad Ishtiyah Qureshi |] | |
| 2. Aziz Istiyah Qureshi |] | Applicants |
| Vs. | | |
| 1. The Senior Police Inspector |] | |
| Nehru Nagar Police Station Mumbai |] | |
| 2. The State of Maharashtra |] | |
| 3. Jitendra Maniklal Rawal |] | |
| 4. Mitul Mahesh Gadda |] | |
| 5. Chirag Suresh Shaha |] | |
| 6. Manish Santosh Vangani |] | Respondents |

.....

Mr. Mateen Shaikh a/w Ms. Muskan Shaikh, for Applicants.

Mr. J.P. Yagnik, A.P.P, for Respondent Nos. 1 and 2-State.

Mr. Arshad Shaikh, for Respondent Nos.3 to 6.

.....

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

DATE : 21st February, 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. Mr. Yagnik, learned A.P.P waives notice on behalf of respondent Nos. 1 and 2-State and Mr. Shaikh, learned Counsel waives notice on behalf of respondent Nos. 3 to 6.

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") bearing No.391 of 2019, registered with Nehrunagar Police Station, Mumbai for the alleged offence punishable under section 420 of the Indian Penal Code (for short "I.P.C") and consequently, the proceeding pending before the learned 34th Metropolitan Magistrate Court, Vikroli, Mumbai being C.C. No.253/PW/2021. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as under.

7. The applicants are the real brothers. Respondent No.3-Jitendra Maniklal Rawal is the first informant. Respondent No.4-

Mitul Mahesh Gadda, respondent No.5-Chirag Suresh Shaha and respondent No.6-Manish Santosh Vangani are the witnesses. The applicants and respondents No.3 to 6 run mobile and mobile accessories business. The applicant No.1 is the retail seller, respondents No.3 to 6 are the authorized distributors of the said mobile sets. It is alleged that an employee of the respondent No.3 approached the applicants' shop. There were business transactions between the applicants and the respondents No.3 to 6 as the applicants run a shop viz. "Nayab Collection" near Kurla Railway Station, C.S.T. Road, Kurla (West).

8. The applicants were dealing with the respondent No.3 from last two to three years on account of their business of sale of mobile. Respondent No.3 started supplying bulk quantity mobiles as per the requirement. In the month of October, 2019, an employee of the respondent No.3 visited the applicants' shop and in view of the ensuing Diwali Festival, the applicants ordered bulk quantity between 1st October, 2019 and 31st October, 2019. The applicants issued few cheques against the purchase bills which were deposited by the respondent No.3 in his Company's Bank account.

9. On the next day, respondent No.3 realized that the payment was stopped by the applicants. Upon inquiry with the applicants, no satisfactory answers were given by the applicants and, therefore, respondent No.3 visited the shop of the applicants along with other company distributors. Suspecting the conduct of the applicants, a report came to be lodged, as above.

10. After investigation, a charge-sheet came to be filed against the applicants in the 34th Metropolitan Magistrate Court at Vikhroli.

11. The parties have now decided to amicably settle the dispute as according to the applicants and respondents No.3 to 6 it was a business transaction only with the applicant No.1 and that the applicant No.2 has nothing to do with the alleged business of transactions.

12. Respondent No.3 - Jitendra Maniklal Rawal has sworn an affidavit dated 21st February, 2023 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Bombay. In paragraph 3 of the said affidavit, he has stated that he has received an amount of Rs.11,32,583/- as full and final settlement vide

Demand Draft No.000817 drawn on AXIS Bank in the name of "Laxmi Enterprises", hence, he has no objection for quashing the aforesaid F.I.R, as against the applicants.

13. Respondent No.4 - Mitul Mahesh Gadda has sworn an affidavit dated 21st February, 2023 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Bombay. In paragraph 2 of the said affidavit, he has stated that he has received an amount of Rs.2,28,051/- as full and final settlement vide Demand Draft No.000816 drawn on AXIS Bank in the name of "Hitech Communication", hence, he has no objection for quashing the aforesaid F.I.R, as against the applicants.

14. Respondent No.5 - Chirag Suresh Shaha sworn an affidavit dated 21st February, 2023 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Bombay. In paragraph 3 of the said affidavit, he has stated that he has received an amount of Rs.6,59,711/- as full and final settlement vide Demand Draft No.000815 drawn on AXIS Bank in the name of "Arihant Marketing", hence, he has no objection for quashing the aforesaid F.I.R, as against the applicants.

15. Respondent No.6 - Manish Santosh Vangani has sworn an affidavit dated 21st February, 2023 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Bombay. In paragraph 3 of the said affidavit, he has stated that he has received an amount of Rs. 3,27,479/- as full and final settlement vide Demand Draft No.000818 drawn on AXIS Bank in the name of "Ashoka Agencies", hence, he has no objection for quashing the aforesaid F.I.R, as against the applicants.

16. Photostat copies of the Aadhar Cards of the respondents No.3, 4 and 5 duly attested by them are annexed with their affidavits. Respondent No.6 has annexed photostat copy of his PAN card duly attested by him.

17. Respondents No.3,4,5 and 6 are present in the Court. On being questioned, they reiterate what is stated by them in their affidavits. Learned Counsel for respondent Nos. 3, 4,5 and 6 has identified them. Learned A.P.P has verified the original Aadhar Cards of respondents No.3,4 and 5 and original PAN Card of respondent No.6.

18. Considering the nature of the dispute, amicable settlement between the parties, affidavits of respondents No.3,4,5 and 6 and having regard to the judicial pronouncements of the Apex Court in 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.

19. The application is accordingly allowed. The F.I.R bearing No.391 of 2019 registered with Nehru Nagar Police Station, Mumbai, as against the applicants and consequently the proceeding pending before the learned 34th Metropolitan Magistrate, at Vikroli, Mumbai being C.C. No.253/PW of 2021, are quashed and set aside.

20. The applicants to deposit costs of Rs.25,000/- with "**MSWC Asha Sadan, Union Bank of India, Null Bazar Branch, Account No.318702010029260, IFSC Code No.UBIN0531871**", within four weeks from today.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

21. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

22. Matter to be listed on **27th March, 2023** for recording compliance regarding deposit of costs.

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

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]