

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

**CRIMINAL WRIT PETITION NO. 5681 OF 2018**

Nikhil Nitin Patil ... Petitioner  
Versus  
1. The State of Maharashtra  
2. Sharad Ananda Shinde ... Respondents

Mr. Balwant Salunkhe, for the Petitioner.  
Mr. J. P. Yagnik, APP for the Respondent No.1– State.  
Mr. C. K. Bhangoji, for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &  
ARIF S. DOCTOR, JJ.**

**DATE : 5<sup>th</sup> JANUARY, 2023.**

**P. C. :**

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and the Petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State and learned Counsel Mr. C. K. Bhangoji 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 Code of Criminal Procedure, 1973, the petitioner seeks quashing and setting

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aside of the FIR, bearing C.R.No. 314 of 2018, registered with the Miraj Gramin Police Station, Sangli, for the alleged offences punishable under Sections 420 and 406 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 respondent No.2, he had obtained a loan of Rs.4,85,703-00 from L and T Finance Company, for purchasing a tractor for cultivating the land. He has stated that he paid the initial installments to the agent of the Finance Company, however, due to financial difficulty he was unable to pay the last two installments. Respondent No.2 has further stated that the petitioner came to his house to recover the dues by disclosing that he was working with Balaji Distributor Recovery Agency, Kolhapur. He has alleged that on 07/11/2017, the petitioner collected an installment of Rs.1,00,000/- from him towards the last two installments. According to the respondent No.2, he later learnt that the petitioner had not deposited the said amount of Rs.1,00,000/- with the Finance Company and hence, he lodged the aforesaid FIR as against the petitioner alleging the aforesaid offences. Admittedly, charge-sheet

has not been filed till date.

5 In the interregnum, during the pendency of the investigation in the aforesaid C.R, the parties amicably settled their dispute. It appears that the petitioner has paid an amount of Rs.1,00,000/- to the respondent No.2. The same is not disputed by the learned Counsel for the respondent No.2. The respondent No.2 has filed an affidavit dated 4<sup>th</sup> January, 2019 duly affirmed before the Assistant Registrar, High Court, Bombay. In the said affidavit, the respondent No.2 has stated that the matter has been amicably settled and that he does not wish to pursue the case against the petitioner. He has stated that he has received Rs.1,00,000/- and as such, has no objection to the quashing of the FIR.

6 Vide order dated 18<sup>th</sup> January, 2019, having regard to the affidavit filed by the respondent No.2, the presence of the respondent No.2 was dispensed with. Hence, vide order dated 17<sup>th</sup> November, 2022, we directed the concerned officer from the Miraj Gramin Police Station, Sangli, to record the statement of the respondent No.2 as to whether, the respondent No.2 had received

Rs.1,00,000/- and whether he had any objection for quashing of the case registered at his behest. Learned APP has today tendered a report of the Police Head Constable, attached to Miraj Gramin Police Station, dated 30<sup>th</sup> November, 2022. To the said report is annexed the statement of the respondent No.2-Sharad Ananda Shinde, dated 28<sup>th</sup> November, 2022 duly signed by the said respondent. In the said statement, respondent No.2 has stated that he has received the amount and that he has no objection, if the FIR is quashed and set aside. The said statement and report are marked as **‘X’ for identification.**

7        Considering the nature of the dispute between the parties, the nature of the allegations, the amicable settlement between the parties and the statement of respondent No.2 recorded by the police and having regard to the judicial pronouncements of the Apex Court in **Gian Singh vs. State of Punjab & Anr.<sup>1</sup>** and **Narinder Singh & Ors. vs. State of Punjab & Anr.<sup>2</sup>**, there is no impediment in allowing the Petition.

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<sup>1</sup> (2012) 10 SCC 303

<sup>2</sup> (2014) 6 SCC 466

8 Accordingly, the Petition is allowed and the FIR bearing C.R.No. 314 of 2018, registered with the Miraj Gramin Police Station, Sangli, as against the petitioner, is quashed and set aside.

9 The petitioner to deposit costs of Rs. 2,500/- with the Kirtikar Law Library, Mumbai, within three weeks from today.

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

11 The above order is subject to costs being deposited as stated aforesaid.

12 List on **6<sup>th</sup> February, 2023**, under the caption 'for compliance'.

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

**ARIF S. DOCTOR, J.**

**REVATI MOHITE DERE, J.**