



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION (APL) NO. 631 OF 2018

Gautam s/o Kishanrao Bhatkar

Vs.

The State of Maharashtra, Thru. Police Station Sonegaon, Nagpur and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Rani G. Nitnaware, Advocate for applicant.

Mr. V.A. Thakare, APP for respondent No.1.

Ms. Priyanka M. Mane, Advocate for respondent No.2.

**CORAM : NITIN W. SAMBRE, AND
VALMIKI SA MENEZES, JJ.**

DATE : 12.09.2023.

We have heard respective counsels. The prayer is for quashing of the FIR in Crime No.115/2018 dated 29.06.2018, for the offence punishable under Section 447 of the Indian Penal Code, registered with Police Station Sonegaon, Nagpur.

2. We are informed that till this date the applicant is not charge-sheeted. The genesis of the offence is based on the encroachment by the applicant by constructing the wall on the property owned by the respondent No.2 – complainant. The

respondent No.2 – complainant has filed Regular Civil Suit No.91/1989, which was decided on 17.12.2015, by 3rd Joint Civil Judge Junior Division, Nagpur, wherein prayer of the respondent-plaintiff for mandatory injunction for removal of encroachment came to be allowed.

3. The respondent No.2 – complainant has placed on record an affidavit duly sworn on 29.08.2023, thereby extending consent for quashing of FIR, as it is claimed that the applicant and respondent No.2 have resolved their differences.

4. The respondent No.2 – complainant, is present in the Court. Learned APP Mr. V.A.Thakare, informed to us that the respondent No.2 has voluntarily executed an affidavit and extending his consent.

5. In this backdrop, having regard to the law laid down by the Hon'ble Apex Court in the matter of *Gian Singh Vs. State of Punjab and Ors.(2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & anr. (2014) 6 SCC 466*, no purpose will be served in keeping the prosecution pending against the applicant, having regard to the stand taken by the respondent No.2.

6. In view of the consent extended by the respondent No.2, the present application stands allowed in terms of prayer clause (1) subject to payment of cost of Rs.25,000/- (Rupees Twenty Five Thousand only) to be paid to the **Central Police Welfare Fund** within a period of **eight weeks** from today.

7. The acknowledgment of the same be produced on record within the aforesaid period, failing which, the order allowing the application shall stand recalled automatically and the prayer for quashing be termed as dismissed without further reference to the Court.

JUDGE

JUDGE