

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 313 OF 2024

Kamalkishore Gupta and ors. ... Applicants

Versus

The State of Maharashtra and anr. ... Respondents

Mr. Manohar Ramsinghavi a/w Vishal Makwana a/w Kantilal Behwal a/w Vinay Dali i/b Diamondwala and Co for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

Ms. Zehra Charania for Respondent No. 2.

**CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.**

DATED : 15.03.2024

P.C. :-

Not on board. Upon mentioning, taken on production board.

2. The Applicants are arraigned as accused in First Information Report dated 12.02.2024 registered with Kurar Village Police Station vide Crime No. 116 of 2024 for offence under Sections 406, 409, 420, 465, 467, 468, 471, 474 r/w 34 of the Indian Penal Code and Section 7 of Maharashtra Ownership of Flats (Regulation of the Promotion, Construction, Sale, Management and Transfer) Act, 1963.

3. The allegations in the FIR in nutshell is that vide

Agreement for Sale dated 20.11.2014, the first informant purchased flat in Altamonte Projects of Malad of M/s. Omkar Builders for total sale consideration of Rs.2,54,75,250/-. The first informant paid Rs.1,90,85,707/- to Omkar Builders. Since possession of the said Flat was not given, FIR was registered.

4. Parties have amicably settled the dispute. They have executed the consent terms dated 2.3.2024. As per consent terms, Era Realtors Private Limited, the Developer have agreed to pay respondent No.2 a sum of Rs.3,00,00,000/- as full and final settlement of all the claims of respondent No.2.

5. Upon execution of consent terms, the applicants have paid the amount of Rs. 1,00,00,000/- by cheque No.002792 drawn on ICICI Bank, Mumbai dated 2.3.2024 to respondent No.2. The balance amount is agreed to be paid in two installments. The first installment of Rs.1,00,00,000/- shall be paid by the applicants to respondent No.2 within 30 days from the date of order of the quashing FIR and the balance of Rs.1,00,00,000/- shall be paid by the applicants to respondent No.2 within 30 days from the date of payments of amount of installment of Rs.1,00,00,000/- as stated above within which time the respondent No.2 shall sign, execute and register the Deed of Cancellation of Agreement for Sale dated 20.11.2014 in respect of the said flat.

6. The Applicants and respondent No. 2 are present in the Court.

7. The respondent No.2 has filed the affidavit of consent stating that he has entered into and signed consent terms with the applicants whereby Era Realtors Private Limited, the Developers have agreed to settle all claims. In view of amicable settlement, he does not wish to pursue the said FIR initiated by him against the applicants and their companies with whom he had booked the said Flat.

8. Considering the fact that the parties have resolved the dispute and taking into consideration the nature of dispute between the parties, the FIR can be quashed.

ORDER

- (i) Criminal Application is allowed.
- (ii) The First Information Report dated 12.02.2024 vide Crime No. 116 of 2024 registered with Kurar Village Police Station for offence under Sections 406, 409, 420, 465, 467, 468, 471, 474 r/w 34 of the Indian Penal Code and Section 7 of MOFA Act is quashed and set aside.
- (iii) The applicants shall adhere to terms of consent terms. In the event consent terms are not complied, the complainant will be at liberty to move this Court for initiating the appropriate action including revival of the proceedings.
- (iv) The Application is disposed of.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)