

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

CRIMINAL WRIT PETITION NO. 1869 OF 2019

Rajesh Himatlal ...Petitioner
Versus
The State Of Maharashtra And Ors. ...Respondents

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Mr. Rajesh Kachare, Advocate for the Petitioner.

Mr. M.M. Deshmukh, APP for the Respondent – State.

Mr. Bruno Castellino, Advocate for Respondent Nos. 2 and 3.

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

DATE : 19th MARCH, 2024.

P.C.:

1. The Petitioner and Respondent Nos.2 and 3 had jointly prayed that the First Information Report (for short 'FIR') dated 21st February, 2019 registered with Dahisar Police Station vide C.R. No.73 of 2019 for offence under Sections 420 and 406 of Indian Penal Code (for short 'IPC') may be quashed with the consent of Respondent Nos.2 and 3.

2. The FIR was lodged on 21st February, 2019 alleging that the first informant and his wife had booked a flat in the building constructed by the Accused and the agreement was registered with Sub-registrar. The complainant had obtained loan towards purchase

of flat. The agreement was terminated on 23rd December, 2015.

3. The Respondent Nos.2 and 3 had filed a complaint before RERA and being aggrieved by the Order passed therein, the Petitioner had filed a appeal before the Appellate Tribunal and in view of adverse order passed by Appellate Tribunal, second appeal was preferred before this Court. During the pendency of the said appeal the parties have resolved the dispute. Consent terms were filed.

4. It is submitted that there is amicable settlement between the parties. In view of settlement, the possession of the flat premises is handed over to Respondent Nos.2 and 3. The balance consideration of Rs.46,00,000/- was paid by Respondent Nos.2 and 3 to the Developer/Petitioner. The Developer has forwarded all the requisite NOCs.

5. The Respondent Nos.2 and 3 have filed an affidavit alongwith the consent terms filed in the Second Appeal No.190 of 2023. The Respondent Nos.2 and 3 are represented by the Advocate. In the affidavit it is stated that the Petitioner and Respondent Nos.2 and 3 have arrived at settlement by filing consent terms dated 13th February, 2024 in Second Appeal No.190 of 2023, wherein the Respondents have taken possession of the

disputed flat by paying Rs.46,00,000/- in full and final settlement of their dispute. The Respondents to withdraw all the allegations, insinuations and complaints made against the Petitioner and prayed that the impugned FIR dated 21st February, 2019 and charge-sheet, if any, filed in the matter may be quashed and set aside. The affidavit is taken on record.

6. Considering the nature of dispute between the parties and since it is resolved as stated above, the impugned FIR can be quashed.

ORDER

- i. Criminal Writ Petition No.1869 of 2019 is allowed;
- ii. The First Information Report dated 21st February, 2019 registered with Dahisar Police Station vide C.R. No.73 of 2019 is quashed and set aside.
- iii. The Petitioner shall pay cost of Rs.25,000/- to Kirtikar Law Library, High Court of Bombay within a period of two weeks from today. The Account details are as under:

Account No.	:	000110110012632
Bank Name	:	Bank of India
Branch	:	Mumbai Main
IFSC Code	:	BKID0000001
MICR Code	:	400013087

iv. Petition stands disposed off accordingly.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)