

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

CRIMINAL WRIT PETITION NO. 1704 OF 2024

Nikhil Silva alias Nikhiel James Silva and ors. Petitioners
v/s.
The State of Maharashtra and ors. Respondents

**WITH
CRIMINAL WRIT PETITION NO. 1890 OF 2024**

Rajendra Sadashiv Chandrachud Petitioner
v/s.
The State of Maharashtra and anr. Respondents

Mr. Manoj Mohite, Senior Advocate with Mr. Subodh Desai,
Mr. Kartik Garg, Ms. Dipti Das, Mr. Sunil Vyas, Mr. Santosh Bhatt,
Ms. Shanvi Punamiya and Mr. Deep Morabia i/b Fox Mandal & Associates
LLP for the Petitioners in WP/1704/2024.
Mr. Atharva Dandekar i/b. Mr. Vijendra Mishra for the Petitioners in
WP/1890/2024.
Mr. Anand Shalgaonkar APP for the Respondent-State.
Mr. Ooril Panchal a/w. Mr. Omneel Jadhav, Mr. Mahesh Kukreja,
Mr. Chinmay Gaonkar, Adv. Sharanya Mahimtura and Ms. Vidhi
Gosar i/b. Mahimtura and Co. for Respondent No.2 in WP/1809/2024
and for Respondent Nos.2 to 9 in WP/1704/2024.
Mr. Sangle, PI, EOW, Mumbai present.
Ms. Aneesha Munshi with Ms. Palak Jain i/b Divya Shah Associates
for Escrow Agent.
Mr. Sandeep Dhangar for Respondent No.10.

**CORAM: A.S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATED : 09th MAY, 2024.

PC. : [PER : SHYAM C. CHANDAK, J.] :-

1) Writ Petition No.1890/2024 not on board. Mentioned. Taken
on production board.

2) By the present Petitions under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., the Petitioners, accused nos.2, 4, 5, 6, 7, 8, 9, 10, 11 and 13 have prayed for quashing of C.C.No.PW/4700854/2021 pending on the file of Additional Chief Metropolitan Magistrate, 47th Court, Esplanade Court, Mumbai arising out of C.R.No.83/2017 registered with E.O.W. Housing-1, Unit 1, Mumbai for offences punishable under Sections 409, 420, 120(B) of the Indian Penal Code and Sections 3, 4, 5, 11 and 13 of The Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

3) As per record, in the interregnum, original accused no.3, Suhasini S. Chandrachud and original accused no.12, Ramesh Govind Dhage have passed away.

3.1) Mr. Mohite, learned senior Advocate appearing for the Petitioners in WP/1704/2024 submitted that, the accused no.1 i.e. M/s. Kusumavati Infrastructure Pvt. Ltd. Company is under liquidation and therefore except the said 03 accused persons, all the rest of the accused persons have preferred present Petitions. He further submitted that, the Petitioners and Respondent Nos.2 to 9 have settled their disputes and differences and have given their consent/no objection by filing Affidavits for quashing of the present crime. He therefore submitted that, the Petitions may be allowed by quashing the said crime.

4) Mr. Panchal, learned Advocate for Respondent Nos.2 to 9 tendered across the bar Affidavits dated 18/03/2024, 15/04/2024, 19/04/2024, 22/04/2024 and 09/05/2024 duly affirmed before a Notary Public. In the said Affidavits, Respondent Nos.2 to 9 have given their 'no objection' for quashing of the said EOW proceedings.

4.1) Respondent No.2 – Smt. Anita Mirpuri, the informant is personally present in the Court and through her Advocate reiterates the contents of the Affidavits dated 22nd April, 2024 and 09th May, 2024. As far as Respondent Nos.3 to 9 in WP/1704/2024 are concerned, those are also the victims of the present crime. The said Respondent Nos.3 to 9 are the close family members of Respondent No.2 – Smt. Anita Murpuri. The said Respondents have also filed their individual Affidavits dated 18/03/2024, 15/04/2024 and 19/04/2024 giving their 'no objection' for quashing of the crime in question. The said fact is confirmed by their learned Advocate.

5) In view thereof, we are inclined to quash C.R.No.83/2017 registered with E.O.W., Housing I, Unit I, Mumbai and subsequent C.C.No.PW/4700854/2021 pending on the file of Additional Chief Metropolitan Magistrate, 47th Court, Esplanade Court, Mumbai.

6) As we expressed our opinion for quashing of the present crime, learned Advocates for the respective Petitioners on instructions submitted that, the Petitioners in WP/1704/2024 will jointly and severally pay a cost of Rs.9,00,000/- and Petitioner in WP/1890/2024 will pay a

cost of Rs.1,00,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the Order. The said statement is accepted as an undertaking given to this Court.

7) We therefore direct the Petitioners in WP/1704/2024 to pay a cost of Rs.9,00,000/- and Petitioners in WP/1890/2024 to pay cost of Rs.1,00,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order on the Official Website of High Court, Bombay.

7.1) Details of the bank account for payment of cost are as under :-

Account Name :- Advocates Association of Western India
Generation Next.
Account Number :- 000110110007807.
Bank Number :- Bank of India.
Branch Name :- Mumbai Main.
IFSC Code :- BKID0000001.

7.2) Petitioners to deposit the said cost of Rs.10,00,000/- as stated above within stipulated period and submit receipt of the same in the Registry of this Court.

8) In view of the above and subject to payment of cost, Petitions are allowed in terms of prayer clause (a).

9) As we have quashed the crime as noted above, learned APP on instructions from Mr. Sangle, PI, E.O.W., Mumbai submitted that, the

Investigating Officer through proper channel will immediately inform the concerned Authority for withdrawal of Look Out Circular and/or Red Corner Notice issued against the Petitioners and will also inform to the concerned Bank for defreezing of account(s) of the Petitioners. The said statement is accepted.

10) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petitions shall stand revived automatically and in that event, the trial Court will proceed with the hearing of C.C.No.PW/4700854/2021 expeditiously.

11) List the Petitions on board on 15th June, 2024 under the caption 'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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