

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

CRIMINAL APPLICATION NO. 1658 OF 2023

Rahul R. Nahar and anr.

.... Applicants

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Niranjan Mundargi a/w. Mr. Akshay Petkar, Mr. Aniket Malu and
Ms. Keral Mehta for the Applicants.

Mrs. M.M. Deshmukh, APP for the State.

Mr. S.B. Bhatagunaki for Respondent No.2.

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

DATED : 07th MAY, 2024.

P. C. :-

1) Applicants, accused in C.R.No.256/2023 registered with Neral Police Station, District Raigad dated 30th August, 2023 under Sections 406, 420 of the Indian Penal Code, have filed present Application under Section 482 of the Criminal Procedure Code for quashing of the said crime with the consent of Respondent No.2, the victim.

2) Mr. Mundargi, learned Advocate for the Applicants submitted that, basically the transaction between the Applicants and Respondent No.2 was civil in nature. As the Applicants despite accepting the amount from Respondent No.2, could not deliver the agreed suit property within stipulated period, the Respondent No.2 has lodged the present crime. That, the Applicants and Respondent No.2 have now settled their disputes and differences and the Applicants have satisfied the claim of Respondent No.2.

That, the Respondent No.2 has no further grievance against the Applicants and therefore has given his consent for quashing of the crime in question. He therefore prayed that, the said crime may be quashed by allowing the Application.

2.1) Mr. Mundargi, learned counsel further submitted that, though in the F.I.R. the Respondent No.2 has stated that, there were may other persons who have been duped by the Applicants, as a matter of fact, apart from the Applicants no other accused persons are involved in present crime. In view of the consent terms dated 06th May 2024, the Applicants have paid the entire amount and/or handed over flats in lieu of the said amount to the Respondent No.2 who in turn has satisfied the claim as respective flat purchaser/s and therefore as of today, there is no other victim who is remained to be satisfied with the claim of Respondent No.2.

3) Learned Advocate for Respondent No.2 tendered across the bar an Affidavit dated 07th May, 2024 duly affirmed before a Notary Public. To the said Affidavit, Consent Terms dated 06th May, 2024 executed between the Applicants and Respondent No.2 are annexed as 'Exhibit – B'. In the Affidavit, the Respondent No.2 has admitted the fact of execution of the Consent Terms; his amicable settlement with the Applicants and resolving of their disputes and differences. The Respondent No.2 has given his no objection for quashing of the crime in question.

3.1) Respondent No.2 is personally present in the Court and

through his Advocate reiterates the contents of his Affidavit dated 07th May, 2024, execution of Consent Terms dated 06th May, 2024 and his 'no objection' for quashing of the present crime.

4) In view thereof, we are inclined to quash C.R.No.256/2023 registered with Neral Police Station, District Raigad.

5) As we expressed our opinion for quashing of said C.R.No.256/2023 registered with Neral Police Station, District Raigad, learned Advocate for the Applicants on instructions submitted that, the Applicants will pay a cost of Rs.3,00,000/- 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 on the official website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

5.1) As the Respondent No.2 is successful in bringing the Applicants for settlement and in recovery of his entire amount, learned Advocate for Respondent No.2 on instructions submitted that, the Respondent No.2 will also pay cost of Rs.3,00,000/- 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 on the official website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

6) We therefore direct the Applicants to pay cost of Rs.3,00,000/-

and Respondent No.2 to pay cost of Rs.3,00,000/- 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.

6.1) 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.

6.2) Applicants and Respondent No.2 to deposit the said cost of Rs.6,00,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

7) In view of the above and subject to payment of cost, Application is allowed in terms of prayer clause (a).

8) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Application shall stand revived automatically and in that event, the investigation of the said crime will be completed expeditiously.

9) List the Petition on board on 19th June, 2024 under the caption 'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)