



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2166 OF 2024

Alok Manohar Tayal & Anr.

.....Petitioners

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Kuldeep U. Nikam, for the Petitioners.

Smt. Anamika Malhotra, Addl.PP, for Respondent No.1-State.

Mr. Suyash Sule, for Respondent No.2.

CORAM : SARANG V. KOTWAL AND

DR. NEELA GOKHALE, JJ.

DATE : 16th OCTOBER 2024.

P.C.:-

1) This Petition is filed for quashing of the C.R.No. 9 of 2024 registered with Khadki Police Station, Pune for offences punishable under Section 406 and 420 read with 34 of the Indian Penal Code.

Mr. Sule undertakes to file vakalatnama on behalf of Respondent No.2.

2) Heard Mr. Nikam, learned counsel for the Petitioner, Smt. Malhotra, learned APP for Respondent No.1-State and Mr. Sule, learned counsel for Respondent No. 2.

3) The FIR is lodged by the Respondent No.2 on 9th January 2024. The First Informant has stated that his cousin Santosh Agarwal

and his wife Nidhi Agarwal told him that they had purchased a Flat No.1202 in Kasturi Epitom, D building at Wakad, Pune from M/s. Kasturi Developers and they wanted to sell that flat. The First Informant showed his willingness to purchase that flat for an amount to the tune of Rupees 1,50,00,000/- out of which on two occasions the Informant paid Rs.50,00,000/- thus making total payment of Rs.1,00,00,000/-. The balance amount was to be paid after the sale deed was registered and possession was given. Santosh and Nidhi told the Informant that they would be in the possession in December 2023, however, the possession was never given to the Informant as promised. On enquiry, the Informant came to know that Santosh and Nidhi had in fact sold the said flat to the present Petitioners by a registered sale deed. Informant confronted Santosh Agarwal. At that time, the Informant was told that the Petitioner No. 1 was the co-brother of Santosh. Petitioner No.1 had given Rs.5,00,00,000/- by way of hand loan to Santosh. It was not returned and therefore, the Petitioner No. 1 was putting pressure on Santosh. The Informant lost his money and did not get his possession, therefore, he lodged this FIR.

4) Subsequent to filing of the FIR, the parties arrived at a

settlement. In the meantime, the Informant had lodged civil suit bearing Special Civil Suit No. 2243 of 2023 before the Joint Civil Judge Senior Division, Pune against the Petitioners, Santosh and Nidhi. In accordance with the settlement, even that suit was withdrawn. Learned counsel for the Petitioners submitted that consequently, Petitioners are *bona fide* purchasers and there is no privity of contract between the Informant and the Petitioners. Their transaction with Santosh was totally independent of the transaction between Santosh and the First Informant. In this background, since the matter is settled between the parties, this Petition deserves to be allowed.

5) Learned counsel for the Respondent No.2/First Informant has filed consent Affidavit before the Court. The Respondent No.2/First Informant is present in Court and is identified by his counsel. Through his counsel, the First Informant states before the Court that the matter is settled between the parties and he has no objection for quashing the F.I.R.

6) We have considered this situation. The consent Affidavit filed by the Respondent No.2/First Informant mentions that the matter is settled between the parties. The order passed by the Civil

Court is annexed at page No.5 of the Affidavit, where it is mentioned that the suit was dismissed as withdrawn. The Settlement Agreement is annexed to this consent Affidavit. There is specific averment in the Affidavit that the Informant has given his unconditional consent to allow the present Petition for quashing and setting aside the C.R. No.9 of 24 registered with Khadki Police Station, Pune.

7) Considering the fact that the nature of dispute is purely personal and not affecting the society in general and the fact that the parties have settled their dispute and the Informant has given no objection for quashing and setting aside the impugned FIR, the Petition can be allowed. Hence, the following order:

ORDER

- (i) The C.R.No. 9 of 2024 registered with Khadki Police Station, Pune and subsequent proceeding are quashed and set aside.
- (ii) The Petition is disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)