

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4696 OF 2024

Mr. Subhash Sitaram Agarwal,
Aged about 35 years, Adult, Indian Inhabitant,
Having my address at Flat No. 809, A Wing,
Trishul Golden Villa, Sonivali,
Badlapur West, Thane,
(At present is in Mumbai Central Prison).Petitioner

Vs.

1. The State of Maharashtra
Through its Senior Inspector of Police,
Agripada Police Station,
Having office at Mantralaya,
Mumbai – 400 032.
2. Mr. Nisar Chhedi Khan,
[Informant in FIR No. 560 of 2023,
Registered at Agripada Police Station]
Aged about 45 years, Occ. : Scrap Business,
Residing at 5 Lucky Compound, 2nd Floor,
Room No. 10, 18 Water Street,
Khatau Mill, Byculla, Mumbai – 400 011.Respondents

Mr. Viral Mukte i/b Mr. Akash K. Yadav for the Petitioner.
Smt. Anamika Malhotra, Addl.PP for the Respondent-State.
Mr. Tohid Shaikh i/b Wani Vishnu Arjun for Respondent No. 2.

CORAM : M. S. KARNIK AND
DR. NEELA GOKHALE, JJ.
DATE : 21st NOVEMBER 2024.

ORDER (Per Dr. Neela Gokhale, J) :-

1) The Petitioner seeks to quash and set aside the Case No. 4600728/PW/2024 pending on the file of learned Judicial Magistrate First Class, 46th Court at Mazgaon, Mumbai arising out of FIR No. 560 of 2023

dated 2nd November 2023 registered with Agripada Police Station, Mumbai for the offence punishable under Sections 406 & 420 of the Indian Penal Code.

2) The Petitioner is involved in a business of selling motorcycles and owned a showroom viz. Agarwal Motors. The Respondent No. 2 wanted to purchase a motorcycle, hence he approached to the Petitioner. The Respondent No. 2 is the original complainant.

2.1) The dispute arose out of the transaction of selling of the motorcycle by the Petitioner to the Respondent No. 2 and non-delivery of the vehicle, leading to registration of the impugned FIR.

3) Mr. Viral Mukte, learned counsel appears for the Petitioner and Smt. Anamika Malhotra, learned APP represents the State. Mr. Tohid Shaikh, learned counsel appears for the Respondent No. 2.

4) Learned counsels of parties state that, considering the decision of the parties to resolve their dispute by amicable settlement, Respondent No. 2 has filed today before the Court his consent Affidavit and consent terms, both dated 24th October 2024, duly affirmed before a Notary Public. It is taken on record.

4.1) In paragraph No. 4 of the Affidavit, it is stated that all misunderstandings between the parties have been resolved. In paragraph Nos. 3 & 6 thereof, the Respondent No. 2 has given his consent to quash and set aside the present criminal proceedings.

- 5) The Respondent No. 2 was present in the Court and he was identified by his counsel. Through his counsel, he reiterated the statements made in the consent Affidavit as well as in the consent terms.
- 6) Considering the facts in the present case and the consent Affidavit of Respondent No. 2 & consent terms, we are inclined to quash and set aside the Case No. 4600728/PW/2024 pending on the file of learned Judicial Magistrate First Class, 46th Court at Mazgaon, Mumbai arising out of FIR No. 560 of 2023 dated 2nd November 2023 registered with Agripada Police Station, Mumbai.
- 7) In view of the above, Petition is allowed in terms of prayer clause (a).
- 7.1) Petition is disposed of accordingly.

(DR. NEELA GOKHALE, J.)

(M. S. KARNIK, J.)

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by GITALAXMI
KRISHNA
KOTAWADEKAR
Date:
2024.11.22
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