

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 840 OF 2024**

1. Afzal Furniturewala,
Age : 52 years, Occupation : Business,
2. Siraj Furniturewala,
Age : 60 years, Occupation : Business,
3. Asif Furniturewala,
Age : 57 years, Occupation : Business,

All R/o : 30/B, Juhu Tara Road,
Mumbai – 400 049.

.....Applicants

Vs.

1. The State of Maharashtra
(through D. N. Nagar Police Station).
2. Abdul Sattar Ismail Haibat,
Age : 58 years, Occupation : Service,
Residing at : Flat No. 506, 5th Floor,
Ashiyana CHS, Behind Andheri Fish Market,
Mumbai – 400 058.

.....Respondents

Mr. Gaurav M. Parkar for the Applicants.

Mr. Anand S. Shalgaonkar, A.P.P. for the Respondent-State.

Mr. Manuj Borkar i/b Mr. Prasad Borkar for Respondent No. 2.

A.P.I. Mr. Warpade, D. N. Nagar Police Station present.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 20th AUGUST 2024.

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

1) Applicants seek quashing of criminal proceedings bearing C.C.

No. 2535 of 2022 pending before the learned Metropolitan Magistrate, 10th

Court at Andheri, Mumbai, arising out of C. R. No. 369 of 2022 dated 23rd April 2022 registered with D. N. Nagar Police Station, Mumbai for offences punishable under Sections 420, 468, 467, 471, 120-B & 506 read with 34 of the Indian Penal Code, 1860.

2) The Applicants are Builders and Developers and are engaged in the said business under the name and style of M/s. Millionaire Realities. The Applicants had proposed to redevelop the property which was declared as a Slum under the Slum Rehabilitation Project. The name of Respondent No. 2 was included in the Annexure-II as declared by the Slum Rehabilitation Authority. It was the grievance of Respondent No. 2 that, the Applicants failed to enter into the Permanent Alternate Accommodation Agreement with him. Neither did they gave him alternate accommodation in a transit camp nor paid him any rent for temporary accommodation. Even after the completion of the building, the Respondent No. 2 has not been given the promised flat. It is in these circumstances that the Respondent No. 2 filed the subject F.I.R.

3) Mr. Gaurav Parkar, learned Advocate appears for the Applicants. Mr. Manuj Borkar, learned Advocate appears for the Respondent No. 2 and Mr. A. S. Shalgaonkar, learned A.P.P. represents the State.

4) Mr. Borkar states that, the Respondent No. 2 has received the possession of Flat No. 1506 on the 15th Floor of the building called

‘Ashiyana’ from the Applicants, who are the partners of the firm ‘Millionaire Realities’. Thus he has no complaint against the Applicants. The dispute between the parties is fully settled.

5) Both the counsels stated that, the parties are not desirous of continuing the proceedings. Mr. Parkar therefore prayed that, the said criminal proceedings may be quashed as the Respondent No. 2 has consented for the same. The Respondent No. 2 has filed an Affidavit dated 6th August 2024 to that effect, duly affirmed before the Assistant Registrar, Appellate Side of this Court.

6) The Respondent No. 2 is present before the Court today. Mr. Borkar on instructions admits the contents of Affidavit. In paragraph no. 5 thereof the Respondent No. 2 has stated that, he has no objection if the impugned proceedings are quashed. We accept the statements made in the Affidavit dated 6th August 2024.

7) In view thereof, we are inclined to quash C.C. No. 2535 of 2022 pending before the learned Metropolitan Magistrate, 10th Court at Andheri, Mumbai, arising out of C. R. No. 369 of 2022 dated 23rd April 2022 registered with D. N. Nagar Police Station, Mumbai.

8) As we expressed our opinion for quashing of said C.C. No. 2535 of 2022 pending before the learned Metropolitan Magistrate, 10th Court at Andheri, Mumbai, arising out of C. R. No. 369 of 2022 dated 23rd April 2022 registered with D. N. Nagar Police Station, Mumbai, Mr. Parkar,

learned Advocate for the Applicants on instructions submitted that, the Applicants will pay a cost of Rs. 25,000/- (Rupees Twenty-five Thousand Only) each totalling to Rs. 75,000/- (Rupees Seventy-five Thousand Only), jointly or severally, to the Armed Forces Battle Casualties Welfare Fund, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court. The said statement is accepted as an undertaking given to this Court.

9) We therefore direct the Applicants to pay a cost of Rs. 25,000/- (Rupees Twenty-five Thousand Only) each totalling to Rs. 75,000/- (Rupees Seventy-five Thousand Only), jointly or severally, to the Armed Forces Battle Casualties Welfare Fund, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

9.1) The details of the Bank Account for payment of cost are as under :-

Bank Name :- Canara Bank

Branch Name :- South Block, Defence Headquarters,
New Delhi – 110 011

Account Name :- Armed Forces Battle Casualties Welfare Fund

Account Number :- 90552010165915

IFSC Code :- CNRB0019055

9.2) Applicants to deposit the said cost of Rs. 75,000/- (Rupees Seventy-five Thousand Only), jointly or severally, within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

10) In view of the above and subject to payment of cost by the Applicants, Application is allowed in terms of prayer clause (i).

11) It is made clear that, if the cost is not paid within stipulated period as mentioned above by either of the parties, the Application shall stand revived automatically and in that event, the Investigating Officer will complete the investigation of the present crime expeditiously.

12) List the Application on board on 18th September 2024 under caption 'For Reporting Compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

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KRISHNA
KOTAWADEKAR

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