



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1000 OF 2024

1. Manoj Sambhaji Sawant,
Age: 52 years, Occupation: Business,
R/o. Flat No.2704, Tower-C,
Oberoi Eternia, LBS Road,
Mulund (West), Mumbai – 80.
2. Jayesh Mahesh Thakkar,
Age: 49 years, Occupation: Business,
R/o.3B, 902, Shree Laxmi Park, Phase-2,
P L. Deshpande Road, Thane (W) – 400 606.Applicants

Vs.

1. The State of Maharashtra,
Through Chembur Police Station,
Chembur, Mumbai.
2. Shrinivasan Pattamadai Sitapati,
Age: 74 years, Occu: Retired/business,
R/o. 3/43, Gokul Chembur Prayas CHS Ltd.,
Swatik Park, Chembur, Mumbai.Respondents

Mr. M. N. Sandhyanshiv, for the Applicants.
Mr. Vinod Chate APP, for Respondent No.1-State.
Mr. Aditya Dwivedi, for Respondent No.2.
Smt. Maya Patil, API, Chembur Police Station.

**CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.**
DATE : 4th SEPTEMBER, 2024.

P.C.:

- 1) Leave to amend to state correct case number in the prayer clauses granted. Amendment be carried out forthwith and in any event during the course of the day.

2) The Applicants seek to quash criminal proceedings bearing CC.No.1227/PW/2024 pending before the Metropolitan Magistrate, 11th Court, Kurla, Mumbai arising out C.R.No.698 of 2023 dated 8th December 2023 registered with the Chembur Police Station, Mumbai for offences punishable under Section 385, 452, 506(II) and 504 read with 34 of Indian Penal Code, 1860 ('IPC') and Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014.

3) The dispute between the parties arose out of alleged recovery of loan advanced by the complainant from the Applicants and further threat to life, etc. given by the Applicants to the Respondent No.2. This dispute led to the filing of the FIR culminating in the criminal proceeding impugned herein.

4) Mr. Sandhyanshiv, learned counsel appears for the Applicants and Mr. Aditya Dwivedi, learned counsel appears for the Respondent No.2. Mr. Vinod Chate, learned APP represents the State.

5) Learned counsels of both the Applicants as well as the Respondent No.2 state that, considering the decision of the parties to resolve their dispute by amicable settlement, Respondent No.2 has filed his consent Affidavit dated 6th August 2024 duly affirmed before a Notary Public. He has also placed on record an additional Affidavit dated 28th August 2024 duly affirmed before a Notary Public. In the Affidavits, he states that he has no objection if the FIR and criminal proceedings are

quashed and set aside. In the consent Affidavit dated 6th August 2024, he undertakes to pay Rs.65,00,000/- to the Applicants.

6) Respondent No.2 is present in the Court and through his counsel reiterates the statements made by him in the Affidavit. We accept the statements.

7) Considering the facts in the present case and the consent Affidavit of Respondent No.2, we are inclined to quash criminal proceedings bearing CC.No.1227/PW/2024 pending before the Metropolitan Magistrate, 11th Court, Kurla, Mumbai arising out C.R.No.698 of 2023 dated 8th December 2023 registered with the Chembur Police Station, Mumbai.

8) As we expressed our opinion for quashing the said FIR and criminal proceeding, Mr. Sandhyanshiv, learned counsel appearing for the Applicants on instructions submits that, the Applicants will pay Rs. 50,000/- (Rupees Fifty Thousand Only) each, totaling to Rs.1,00,000/- (Rupees One Lakh Only) and Mr. Dwivedi, learned Advocate appearing for the Respondent No.2 on instructions submits that, the Respondent No.2 will also pay a cost of Rs.1,00,000/- (Rupees One Lakh Only) 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. The Respondent No.2 has agreed to deposit the aforesaid cost since he set the police machinery in motion despite he himself being liable to pay

the amounts to the Applicants.

9) In view thereof, we direct the Applicants and the Respondent No.2 to pay the said cost 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 High Court of Bombay.

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.1,00,000/- (Rupees One Lakh Only) and Respondent No.2 to deposit the said cost of Rs.1,00,000/- (Rupees Twenty Five Thousand Only) 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 and Respondent No.2, Application is allowed in terms of prayer clause (a).

11) It is made clear that, if the cost is not paid by either of the

parties within stipulated period as mentioned above, the Application shall stand revived automatically and in that event, the trial Court shall proceed with the criminal proceeding expeditiously

12) List the Application on board on 24th September 2024, under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)