



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1577 OF 2024

Sanjay Dhanaji Kamble & Ors.

.....Applicants

Vs.

The State of Maharashtra & Ors.

.....Respondents

None for the Applicants.

Smt. M. H. Mhatre, APP, for Respondent No.1-State.

Ms. Deepa Punjani, for Respondent No.2.

CORAM : SARANG V. KOTWAL AND

DR. NEELA GOKHALE, JJ.

DATE : 17th DECEMBER 2024.

P.C.:-

1) This matter is placed before the Court for speaking to the minutes for correction of the typographical error in the order dated 11th December 2024.

2) The C.R. number and the case number in the first paragraph is correctly mentioned, however in the operative part in clause (i) the C.R. number and the case number is incorrectly mentioned. The correct number is C.R.No.392 of 2022 and C.C.No.64/PW/2023 instead of that C.R.No.393 of 2022 and C.C.No.54/PW/2023 is mentioned.

3) Both the learned counsel for the parties submit that it is a

typographical error. We agree with them. It can be corrected. Hence, the following order:

ORDER

- (i) The operative part of the order dated 11th December 2024 be corrected to mention C.R.No.392 of 2022 and C.C.No.64/PW/2023.
- (ii) After the correction is made, the corrected order be uploaded.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)

CORRECTED ORDER DATED 11th DECEMBER 2024 READS THUS:

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Vs.

The State of Maharashtra & Ors.

.....Respondents

**CORAM : SARANG V. KOTWAL AND
DR. NEELA GOKHALE, JJ.**

DATE : 11th DECEMBER 2024.

Mr. Neeraj Yadav, for Applicants.

Smt. Madhavi H. Mhatre, APP, for Respondent No.1-State.

Ms. Deepa H. Punjani, for Respondents No.2 to 10.

1) This is an Application for quashing of the F.I.R. registered vide C.R.No.392 of 2022 at Dadar Police Station resulting in Criminal Case No.64/PW/2023 before the Additional Chief Judicial Magistrate, 5th Court, Dadar for offences under Sections 406, 420, 465, 467, 468, 471, 411 read with 34 of the Indian Penal Code.

2) The F.I.R. is lodged by Respondent No.2 on 2nd June 2022. He has stated that in 2014, he was introduced to the Applicant No.4 Anil Balekar. The Respondent No.2/informant was in need of a room. He wanted to purchase the room at Dadar. The Applicant No.4 represented to him that he was aware that there was an S.R.A. Project at Prabhadevi and that he would get one room for informant for Rs.32,00,000/-. Based on this representation, the informant, i.e., the Respondent No.2 and all other Respondents, i.e., Respondents No.3 to 10 went to the site and saw the rooms. They showed their willingness to purchase those rooms. The F.I.R. thereafter goes on to mention that the Applicants and others took money from all of them. They took Rs.15,00,000/- as part payment from each of the Respondents No.2 to 10 and hence obtained Rs.1,35,00,000/-. Thereafter, the amount was not returned and the rooms were not given. It turned out that the Applicants had no authority to give those rooms to these Respondents.

Therefore, after a lot of persuasion, the accused returned Rs.34,50,000/- in all, but the misappropriation remained to the tune of Rs.1,00,50,000/-. On this basis, the F.I.R. is lodged.

3) The investigation was carried out and chargesheet was filed. One of the allegations was that the Applicants had shown a false Annexure-II showing the names of the Applicants. The chargesheet supports this allegation and contains statements of all these Respondents No.3 to 10.

4) After filing of the chargesheet, now the matter is settled between the parties. The Respondents No.2 to 10 have filed their Affidavits in this proceedings. Respondents No.3 and 10 are not keeping well. Therefore, their sons are present in the Court. The other Respondents are present in the Court. They have filed their separate Affidavits. The Affidavits are similar in respect of the averments made. They have stated that the accused have paid in all Rs.67,50,000/-. The settlement was for Rs.91,50,000/- and as of today Rs.24,00,000/- are to be paid by the accused. On this basis, the settlement is arrived at. However, in spite of the amount of Rs.24,00,000/- is yet to be received, all of them have given their unequivocal no objection for quashing of these proceedings. They

have mentioned their clear no objection in paragraph No.10 of each of those Affidavits. All these Respondents as mentioned are present in the Court. Respondents No.3 and 10 are represented by their sons. They are identified by their learned counsel. All of them stated separately before the Court that they have no objection for quashing of these proceedings.

5) From the perusal of the chargesheet, it appears that it is a personal commercial dispute between these Respondents and the accused. Learned APP submitted that the Applicant No.1 has other antecedents. However, we are considering the settlement in respect of the present offence only. As mentioned above, it is a private dispute and the victims/Respondents No.2 to 10 have received the substantial amount and they have no objection for quashing of this proceedings, therefore we are inclined to allow this Application. However, at the same time, we have to take into consideration that substantial amount of Rs.24,00,000/- is yet to be refunded. Hence, the following order:

ORDER

- i) F.I.R. registered vide C.R.No.392 of 2022 at Dadar Police Station resulting in Criminal Case No.64/PW/2023 before the Additional Chief Judicial Magistrate, 5th Court, Dadar are quashed and set aside.

- ii) If the balance amount of Rs.24,00,000/- is not refunded to these Respondents within a period of three months from today, the Respondents No.3 to 10 or either of them are at liberty to approach this Court for recalling of this order. In that case, the prosecution can be revived.
- iii) With these observations, the Application is disposed of.
- iv) It is clarified that this order is passed only in respect of subject matter of this Application.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)