

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4872 OF 2024

- | | | | |
|----|---------------------------------|---|-----------------|
| 1. | Jigar Hemant Shah |] | |
| | Age 31 years, |] | |
| 2. | Hemant Dungarshi Shah |] | |
| | Age 57 years, |] | |
| | Both adult Indian inhabitants, |] | |
| | Residing at A-23/89, |] | |
| | Ambe Niwas, Chittaranjan Nagar, |] | |
| | Rajawadi, Ghatkopar (W.), |] | |
| | Mumbai – 400 089. |] | ... Petitioners |

V/s.

- | | | | |
|----|--|---|-----------------|
| 1. | The State of Maharashtra |] | |
| | At the instance of Sr. Insp. of Police, |] | |
| | Tilak Nagar Police Station vide their C.R. |] | |
| | No. 435 of 2024. |] | |
| 2. | Varsha Shashikant Bhoir |] | |
| | Age 44 years, Adult Indian inhabitant, |] | |
| | Residing at Room No.3, |] | |
| | Mohammed Nabi Compound, Opp. Ram |] | |
| | Mahal Hotel, Kurla (W.), Mumbai. |] | ... Respondents |

Mr. Ayush Pasbola a/w. Ms. Sakshi Agarwal i/b. Mr. Bipin Joshi for Petitioners.

Ms. Savita M. Yadav, A.P.P for Respondent No.1-State.

Mr. Pranav Gole i/b. Ms. Mrunal Bhise for Respondent No.2.

A.P.I. Mr. Dineshkumar Anaule, Tilak Nagar Police Station, Mumbai, present.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

DATE : 23rd June 2025.

JUDGMENT (Per : A. S. GADKARI, J.) :-

1) Petitioners have invoked jurisdiction of this Court under Article 226 of the Constitution of India for quashing of CR No. 0435 of 2024, dated 3rd September 2024, registered with Tilak Nagar Police Station, Mumbai, for the offences punishable under Sections 471, 468, 467, 465, 420, 409, 407, 406 read with 34 of Indian Penal Code, with the consent of Respondent No.2, the informant.

2) Heard Mr. Pasbola, learned Advocate for Petitioners, Ms. Yadav, learned A.P.P. for Respondent No.1 and Mr. Gole, learned Advocate for Respondent No.2. Perused entire record produced before us.

3) The First Information Report is lodged by Respondent No.2. It is the precise case of the prosecution that, the Respondent No.2 booked flat No. 407 in the building named as 'Amber Empire', situated at Chembur, Mumbai and paid an amount of Rs.1,03,00,000/- for the same. Subsequently, the Respondent No.2 realized that the said project is not legally sanctioned or there were no necessary permissions granted to it. The Petitioners also refused to give possession of the said flat to the Respondent No.2. During this entire process the Respondent No.2 suffered loss of Rs.1,26,85,000/-.

The Petitioners by accepting the said amount neither handed over possession of the said flat nor returned the said amount to the Respondent No.2 and threatened her with serious consequences. In this brief premise present crime is registered.

4) Mr. Pasbola, learned Advocate for Petitioners submitted that, during the pendency of investigation, the Petitioners and Respondent No.2 have amicably settled their disputes and differences and have executed 'Memorandum of Understanding' (M.O.U.) dated 28th September 2024. That, as per the M.O.U., the Respondent No.2 has received the possession of the said flat and the agreed amount of compensation and therefore she is not willing to proceed with the said case any further. He submitted that, Respondent No.2 is giving her consent for quashing of the said crime in view of the said M.O.U..

5) Mr. Gole, learned Advocate for Respondent No.2 tendered across the bar Affidavit of Respondent No.2, dated 10th December 2024, duly affirmed before a Notary Public. In the said Affidavit, the Respondent No.2 has admitted the fact of amicable settlement between the Petitioners and herself and execution of M.O.U. dated 28th September 2024. In para No.4 thereof, she has stated that, in pursuance of the said M.O.U. she has received possession of the said flat along with one car parking space as well as compensation. In para No.7 thereof, she has given her no objection for quashing of the crime in-question.

5.1) Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 10th December 2024 and her 'no objection' for quashing of the crime in-question.

6) In view thereof, we are inclined to quash CR No. 0435 of 2024, dated 3rd September 2024, registered with Tilak Nagar Police Station, Mumbai, for the offences punishable under Sections 471, 468, 467, 465, 420, 409, 407, 406 read with 34 of Indian Penal Code.

7) As we expressed our opinion for quashing of CR No. 0435 of 2024, dated 3rd September 2024, registered with Tilak Nagar Police Station, Mumbai, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.1,00,000/- each, totalling to Rs.2,00,000/-, 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 High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

7.1) We therefore direct the Petitioners to pay a cost of Rs.1,00,000/- each, totalling to Rs.2,00,000/-, 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 High Court of Bombay.

7.2) Details of the bank account for payment of cost are as under :-

Account Name :- Armed Forces Battle Casualties
Welfare Fund.

Account Number :- 90552010165915.
Bank Name :- Canara Bank.
Branch :- South Block, Defence Headquarters,
New Delhi – 110 011.
IFSC Code :- CNRB0019055.

7.3) Petitioners to deposit the said cost within stipulated period as noted above and submit receipt(s) of the same in the Registry of this Court.

8) In view of the above and subject to payment of cost by the Petitioners as aforestated, Petition is allowed in terms of prayer clause (b).

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

10) List the Petition on board on 23rd July 2025, under caption 'For Reporting Compliance' of present Order.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)

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