

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.746 OF 2025

- | | | | |
|----|---|---|-----------------|
| 1. | Zeus Housing And Construction Ltd |] | |
| | Having Its Office adress 7/49 Surya Sadan |] | |
| | Sion Main Road, Sion, Mumbai - 400022 |] | ... Petitioner |
| | V/s. | | |
| 1. | The State of Maharashtra |] | |
| | Through the Senior Inspector |] | |
| | of Police Antop Hill Police Station, |] | |
| | Sion (West), Mumbai – 400037 |] | |
| 2. | Mr. Bhaskar Narsayya Udayamari, |] | |
| | Aged 52 years, Residing at 10/N/10, |] | |
| | Transit camp Dharavi, Near Dharavi | | |
| | Police Station Dharavi, Mumbai- 400017 |] | ... Respondents |

WITH

WRIT PETITION NO.6112 OF 2024

- | | | | |
|----|---|---|----------------|
| 1. | Ashit Balwant Doshi, |] | |
| | Aged 56 Years, Occupation: Business |] | |
| | Residing at Flat No.607C, |] | |
| | 6 th Floor Shree Samarth Building, |] | |
| | Khareghat Road, Dadar Parsi Colony, |] | |
| | Dadar (East), Mumbai – 400014 |] | ... Petitioner |

V/s.

1. The State of Maharashtra]
Through the Senior Inspector]
of Police Antop Hill Police Station,]
Sion (West), Mumbai – 400037]
2. Mr. Bhaskar Narsayya Udayamari,]
Aged 52 years, Residing at 10/N/10,]
Transit camp Dharavi, Near Dharavi]
Police Station Dharavi, Mumbai- 400017] ... Respondents

WITH
WRIT PETITION NO.267 OF 2025

1. Mitesh Rameshchandra Shah]
Aged : 57 Years, Occupation : Business]
having address at 101/102, Midas Tower,]
Bhaudaji Road Extension, Sion – West]
Mumbai – 400022] ... Petitioner

V/s.

1. The State of Maharashtra]
through office of Public Prosecutor]
PWD Building, 1st Floor,]
Bombay High Court, Mumbai.]
2. Mr. Bhaskar Narsayya Udyamari]
Age : 51 Years, Occupation : Business,]
residing at Room No.10, Block No.10,]
Row N, Transit Camp NR, Behind]

Dharavi Police Station, Rajiv Gandhi Nagar,]

Mumbai- 400 0017

] ... Respondents

Mr. Waqar Pathan for Petitioners in WP No. 6112/2024 and WP No.746/2025.

Mr. Dinesh L Vishwakarma for Petitioner in WP No.267/2025.

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

Mr. Sujit Mane for Respondent No.2.

Mr. Bhaskar Narsayya Udyamari, Respondent No.2 present-in-person.

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

DATE : 12th JUNE 2025.

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

1) Rule. Rule is made returnable forthwith and with the consent of learned Advocates for the respective parties taken up for hearing.

2) By the afore-noted Petitions filed under Article 226 of the Constitution of India, the Petitioners, accused in C.R. No. 0479 of 2023, registered with Antop Hill police station, Mumbai, for offences punishable under Sections 406, 420 read with 34 of Indian Penal Code and under Sections 4, 5 and 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, are seeking quashing of the said crime with the consent of Respondent No.2, the informant.

3) Heard Mr. Waqar Pathan, learned Advocate for Petitioners in WP No. 6112/2024 and WP No.746/2025, Mr. Dinesh Vishwakarma, learned

Advocate for the Petitioner in WP No.267/2025, Smt. M.M. Deshmukh, learned A.P.P. for Respondent No.1-State and Mr. Sujit Mane, learned Advocate for Respondent No.2. Perused entire record produced before us.

4) The case of the prosecution in nutshell is that, in the year 2014, Respondent No.2 had paid an amount of Rs. 35,09,758/- to the Petitioner in Writ Petition No.746 of 2025, namely, Zeus Housing and Construction Ltd. towards purchase of a flat constructed by it in a building situated at Sion, Koliwada, Mumbai. Petitioner in Writ Petition No. 6112 of 2024, namely, Mr. Ashit Balwant Doshi is the Director of the said company, whereas Petitioner in Writ Petition No. 267 of 2025, namely, Mr. Mitesh Shah is the broker in the said deal. It is alleged that, despite payment of said amount, Petitioners neither gave possession of the agreed flat nor returned the amount to Respondent No.2.

In this brief premise, present crime is registered against Petitioners.

5) Learned Advocates for Petitioners submitted that, during the pendency of investigation, Respondent No.2 settled his disputes and differences with Petitioners and the Petitioners have paid him Rs.65,00,000/- towards full and final settlement. He submitted that, the Respondent No.2 has given his consent for quashing of the said crime and therefore it may be quashed.

6) Learned Advocate appearing for Respondent No.2 tendered across the bar his Affidavit dated 20th December, 2024, duly affirmed before a Notary Public.

6.1) In Paragraph No.4 thereof, it is admitted that, Respondent No.2 has received Rs. 65,00,000/- from the Petitioners towards full and final settlement and no dues are pending between them. In Paragraph Nos. 5, 6 and 7 of the said Affidavit, Respondent No.2 has given his consent for quashing of the crime in question against the Petitioners. The said Affidavit is taken on record.

6.2) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 20th December, 2024 and his 'No objection' for quashing of the crime in-question.

7) In view thereof, we are inclined to quash the said crime i.e.C.R. No. 0479 of 2023, registered with Antop Hill police station, Mumbai, for offences under Sections 406, 420 read with 34 of Indian Penal Code and Sections 4, 5 and 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.

7.1) As we have expressed our inclination to quash the crime against the Petitioners, learned Advocates for Petitioners on instructions submitted that, for quashing of the said crime the Petitioners will pay a cost of Rs. 75,000/- each, totalling to Rs.2,25,000/- 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 the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

7.2) As the Respondent No.2 is successful in bringing Petitioners for settlement by lodgment of present crime and has received Rs.30,00,000/- more than the amount invested, learned Advocate for Respondent No.2 submitted that, Respondent No.2 will also pay a cost of Rs.1,00,000/- 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 the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

7.3) We therefore direct the Petitioners to pay a cost of Rs. 75,000/- each, totalling to Rs.2,25,000/- jointly or severally, and Respondent No.2 to pay a cost of Rs.1,00,000/- 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.

7.4) 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.

7.5) Petitioners and Respondent No.2 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 both Petitioners and Respondent No.2 within stipulated period as noted above, the Writ Petition No. 267 of 2025 is allowed in terms of prayer clause (a); Writ Petition No. 746 of 2025 and Writ Petition No.6112 of 2024 are allowed in terms of prayer clause (b).

8.1) Rule is made absolute in the aforesaid terms.

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 will complete the investigation of the present crime expeditiously.

10) List the Petitions on board on 22nd July 2025, under caption 'For Reporting Compliance' of present Order.

11) As we have quashed the crime against the Petitioners, it is needless to mention that the Investigation Agency shall forthwith hand over the Passports of the Petitioners, seized during the course of investigation, after the Petitioners produce photocopies of the receipts of the aforesaid cost paid to the Armed Forces Battle Casualties Welfare Fund.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)