

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2650 OF 2025

1. Siddik Mohammad Hafizi]
Age : 70 years, Occ. : Business]
R/at : Hafizi House, 1st Floor,]
S.V.Rd., Ajit Wadekar Chowk,]
Jogeshwari (W), Mumbai]
2. Iqbal Valli Hafizi]
Age : 72 years, Occu. : Business]
R/at : B-102, Rasul Manzil,]
Behram Baug, Jogeshwari (W),]
Mumbai – 400 102]
3. Irfan Yusuf Hafizi]
Age : 48 years, Occu. : Business]
R/at : A-301, Rasul Manzil,]
Behram Baug, Jogeshwari (W),]
Mumbai – 400 102] ...Petitioners

V/s.

1. Inamul Hak Barkatali Khan]
Since deceased,]
Residing at the time of his death at :]
Flat no. 1803, Ayesha Tower,]
S.V.Road, Jogeshwari West,]
Mumbai – 400102]
Through his legal heirs ...]
- 1a) Ishreen Khan Pawaskar]
Residing at : Flat no. 1803,]
Ayesha Tower, S.V. Road,]
Jogeshwari West, Mumbai – 400102]
- 1b) Izhar Inamul Hak Khan]
Residing at : Flat no. 1803,]
Ayesha Tower, T.V. Road,]
Jogeshwari West, Mumbai – 400102]
- 2) The State of Maharashtra]
at the instance of Oshiwara P.S.] ...Respondents

Mr.Tapan Thatte a/w. Mr.Abhilesh Chitre, Ms.Sonali Dalvi for Petitioners.
Mr. Shyam K. Tripathi i/b. Mr.Vivek B. Pandey for Respondent Nos. (1a) and (1b).

Smt.Savita M. Yadav, A.P.P for Respondent No.2 - State.

Mr.Prabhat Mankar, PI (IO) a/w. Mr.Navnath Shinde, PSI, Pairvi Officer, Oshiwara Police Station, Mumbai present.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**
DATE : 02nd JULY, 2025

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

1) By this Petition under Article 226 of the Constitution of India, Petitioners/Accused in C.R.No. 0899 of 2023, dated 2nd October, 2023 registered with Oshiwara Police Station, Mumbai, under Sections 406, 420, 504, 506, 34 and 120-B of the Indian Penal Code, 1860 and Sections 3 and 13 of Maharashtra Ownership Flats Act, 1963, have prayed for quashing and setting aside the said crime with the consent of Respondent Nos. (1a) and (1b), i.e. the legal heirs of the first informant.

2) Heard Mr.Thatte, learned Advocate for Petitioners, Mr.Tripathi, learned Advocate for Respondent Nos. (1a) and (1b) and Smt. Savita Yadav, learned A.P.P for Respondent No.2, State.

3) Learned Counsel for Petitioners informs this Court that, till date the Police have not filed charge-sheet. Learned A.P.P on instructions, conceded to the said fact.

4) Learned Advocate appearing for Respondent Nos.(1a) and (1b) submitted that, Respondent No.1 i.e. the informant has passed away on 26th February, 2025. That, Respondent Nos. (1a) and (1b) are the only legal heirs of the Respondent No.1. He submitted that, Petitioners and Respondent Nos. (1a) and (1b) have now settled their disputes and differences amicably and both the said Respondents have filed their respective Affidavits, giving their No Objection for quashing of the crime in question.

4.1) He further submitted that Respondent No.(1a) i.e. Ms.Ishreen Khan Pawaskar has settled down in New Zealand. Respondent No.(1a) has affirmed her Affidavit before a Legal Associates/Notary Public at Auckland, New Zealand dated 7th May, 2025. That, Respondent No.(1b) i.e. Mr.Izhar Inamul Hak Khan has affirmed his Affidavit dated 28th April, 2025 before a Notary Public at Mumbai. He submitted that, in both Affidavits the said Respondents have admitted the fact of amicable settlement between the parties and have given their 'No Objection' for quashing of the crime in question.

4.2) Mr. Tripathi learned Advocate, tendered across the bar Affidavits of Respondent No. (1a) dated 7th May, 2025 and Respondent No. (1b) dated 28th February, 2025. He on instructions, submitted that, he has been authorized to admit the contents of Affidavit dated 7th May, 2025

affirmed by Respondent No.(1a) and to give 'No Objection' on her behalf. The said statement is accepted.

4.3) Respondent No.(1b) is personally present in Court and reiterates the contents of his Affidavit dated 28th April, 2025 and his 'No Objection' for quashing of the crime in question.

5) In view of the above, we are inclined to quash C.R.No. 0899 of 2023, dated 2nd October, 2023 registered with Oshiwara Police Station, Mumbai.

6) As we expressed our opinion for quashing of C.R.No. 0899 of 2023, dated 2nd October, 2023 registered with Oshiwara Police Station, Mumbai, Mr. Thatte, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.50,000/- each, totalling to Rs.1,50,000/- jointly or severally, to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center, within a period of two weeks from the date of uploading of present Judgment on the official website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

6.1) We therefore direct the Petitioners to pay a cost of Rs.50,000/- each, totalling to Rs.1,50,000/- jointly or severally, to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center, within a period of two weeks from the date of uploading of the present Judgment on

the official website of the High Court of Bombay and submit its receipt(s) in the Registry of this Court.

6.2) Details of the bank Account for payment of cost are as under:-

Account Name	:	BCMG'S Advocate Academy & Research Center
Bank and Branch	:	Bank of India, Mumbai Main
Account Number	:	000120110001327
Type of Account	:	Current Account
IFSC Code	:	BKID0000001

7) Petitioners to pay the said cost within stipulated period as noted above and submit its receipt in the Registry of this Court.

8) In view of the above and subject to payment of cost by the Petitioners within stipulated period as noted above, Petition is allowed in terms of prayer clause (a).

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

10) List the Petition on board on 4th August 2025, under the caption 'For Reporting Compliance' of present Judgment.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)