

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

CRIMINAL APPLICATION NO. 4951 OF 2014
WITH APPLN/4935/2014 WITH APPLN/4952/2014

VITTHAL S/O MAROTI KOLEKAR AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. Shantaram R Dhepale
APP for Respondents/State: Mr. S.G. Karlekar.
Advocate for Respondent 2 : Mr. S V Kale R

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: FEBRUARY 02, 2015

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Heard. Perused the allegations in the FIRs.
Prima facie, an offence u/s 395 of IPC has been
disclosed.

2 The learned Counsel for the applicants, in
support of his submissions that when parties are
ready to settle the matter amicably, courts cannot
afford keeping the matter alive with no possibility
of result in favour of prosecution, placed reliance
upon the judgments Supreme Court in cases of
(1) *Yogendra Yada & Ors v. The State of Jharkhand*
& Anr¹, (2) *Madan Mohan Abbot v. State of Punjab*²,

¹ 2014 AIR SCW 4319;

² AIR 2008 SC 1969(1);

*(3) Shiji @ Pappu & ors. v. Radhika & anr.*³ and also the judgments of this Court in cases of (1) *Sitaram s/o Madhavrao Wagh & Anr v. The District Superintendent of Police & Ors.*⁴, (2) *Rahulsingh s/o Balbirsingh Sengar v. State of Maharashtra & Anr.*⁵ as also unreported order of this Court in Criminal Application No.5937 of 2014 dated 24.11.2014.

3 In case of **Gian Singh Vs. State of Punjab and another**⁶ the Apex Court observed that the High Court while exercising powers under section 482 of the Code of Criminal Procedure, must have due regard to the nature and gravity of the crime and the same has to be exercised in accordance with the guideline en-grafted in such power viz, (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

4 In view of the judgment of the Apex Court in case of **Gian Singh** (supra), no case is made out to accept the amicable settlement since allegations in both FIRs disclose offence of decoity punishable u/s 395 of IPC. Even otherwise, on merits, no prayer for quashing the FIRs can be considered since cognizable offence is disclosed, which needs investigation.

Applications stand dismissed at this stage.

(A.M. BADAR, J)

(S.S. SHINDE, J)

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3 2012(2) Bom.C.R.(Cri) 72;

4 2014 ALL MR(Cri) 1212;

5 2014 ALL MR (Cri) 2889;

6(2012) 10 SCC 303;