IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 585 OF 2015

Mr.Habib Ahsan & Ors. ..Applicants

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. Amit Desai, Sr. Advocate Gopal Shenoy i/b. J.Sagar Associates for the Applicant.
Mr. A.V.Singh for the Respondent nos.2, 4 to 8.
Mrs.M.M.Mhatre, APP for the Respondent/State.

CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JULY 01, 2015.

P.C.

1. This application is filed under Section 482 of Cr.P.C. for quashing the proceeding of FIR No. 1170 of 2015 registered with Kashimira Police Station, Mumbai at the instance of the respondent no.2, against the petitioners for the offence punishable under Section 420 r/w. 34 of the Indian Penal Code.

2. Pending investigation, parties settled their dispute amicably and approached this Court for quashing the said FIR. The respondent

no.2 has given letter dated 27th April, 2011 to the Investigating Officer of the subject CR stating that the dispute between himself and the applicant is amicably settled and this letter is also signed by the respondent nos.3 to 8. The said letter written by the respondent further shows that the parties have also entered into agreement dated 25th May, 2015 by recording the terms of settlement.

3. Learned Counsel for the applicant makes a statement, on the basis of instructions from his client who is present in the court, that the respondent nos.2 to 8 have received their dues amount. Learned Counsel appearing for the respondent nos.2, 4 to 8 does not dispute this statement. So far as respondent no.3 is concerned, as stated above, he has signed the letter dated 27.5.2015 and also entered into an agreement dated 25.5.2015 with the petitioner. In this regard statement is also made by the learned Counsel for the petitioner that cheque was issued in his name for the due amount, which he has already encashed.

4. Learned Counsel for the petitioner submits that record reveals that one Nanuram Jaiswal also claims to be cheated. The petitioner wanted to settle his claim also. However, he could not be traced.

According to the petitioner, the claim of Nanuram Jaiswal is Rs.27000/-. They have shown willingness to deposit this amount in this Court.

5. Learned APP, upon instructions from the Officer present in the Court does not dispute that the whereabouts of respondent no.3 are not known. So far as respondent nos.2, 4, 5, 6, 7 and 8 are concerned, they have filed affidavit and they have stated in the affidavit that their claim has been settled by the petitioner and they have no objection to quash the said FIR.

6. Respondent Nos, 2, 4 to 8 are personally present before the Court. On specific query made by us, they submitted that they have made the said statement in the affidavit on their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the criminal proceedings in question initiated by them against the applicant for the offence punishable under sections 420 r/w. 34 of the Indian Penal Code, 1860.

7. It can thus be seen that the dispute between the parties is settled. The allegation made against the petitioners is personal in

nature and no element of public law is involved in the crime. In the circumstances, and especially, in view of the law laid down by the Apex Court in the case of *Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582]*, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

8. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of *Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]* we are of the considered view that there is no impediment in quashing the criminal proceedings.

9. Accordingly, application is allowed in terms of prayer clause (a).

9. As a condition precedent for this order to take effect, the Applicant shall pay costs of Rs.10000/- (Rupees Ten Thousand Only) to the Central Police Welfare Fund, Account No. 914010029005759, Axis Bank, IPS Code UTIB0000060 and produce a copy of the receipt on the file of this application within a period of two weeks from today.

10. The amount of Rs.27000/- which is due to one Nanuram Jaiswal, shall be deposited by the petitioner in this court within a period of two weeks from today. The registry shall invest this amount in Fixed Deposit with nationalized bank initially for the period of one year and renew the same from time to time. Registry is further directed to pay this amount to said Nanuram Jaiswal, upon he making proper application for refund of the said amount, and after establishing his identity.

(ANUJA PRABHUDESSAI, J.) **(RANJIT MORE, J.)**