

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 989 OF 2015

Mr.Raghbir Singh Sandhu & ors. ... Applicants.
Versus
M/s. Ares Investments & anr. ... Respondents.

Mr. Amit P. Ghag, advocate for Applicant.

Mr. S. Srivastava i/b. D.H. Law Associates, advocate for respondent
No. 1.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 29, 2015

P.C.:

1 Heard the learned Counsel for the applicants, learned Counsel
for the respondent No. 1 and the learned APP for State.

2 Vakalatnama filed by the respondent No.1 is taken on record
and marked as article "X" for the purpose of identification.

3 Rule. Rule made returnable forthwith with the consent of the parties.

4 The applicants herein are questioning the correctness and validity of the order dated 17/9/2011 passed by Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai, thereby issuing process against the accused Nos. 1 to 5 for offence punishable under Section 409, 420, 465, 467, 468, 471, 477A, 474 read with Section 34 of the Indian Penal Code. The case was registered as C.C. No. 659/Misc/2010 and was pending before the Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai. The applicants herein happens to be the accused in the said case.

5 Being aggrieved by the order of issuance of process, applicants herein had filed Revision Application under Section 397 of the Code of Criminal Procedure, 1973 before the Sessions Court. During the pendency of the said proceedings, the applicants and the respondent No. 1 has arrived at an amicable settlement. Consent terms were filed

in Arbitration Petition (L) No. 1874 of 2014 in this Court on 13/7/2015 before the Hon'ble Shri Justice R.D. Dhanuka. The applicants and the respondents have agreed to abide by the consent terms. The Minutes of Order have also been drawn pursuant to the consent terms. Offenses punishable under Section 409, 420, 465, 467, 468, 471, 477A, 474 are non-compoundable offences. However, in the interest of justice when the transaction is a privity of contract between two parties, the Court would be inclined to allow the parties to compound the offence in the interest of justice to see that there is no abuse of process of law. The applicants have withdrawn the Revision application filed by them before the Sessions Court.

6 The applicant Nos. 1 and 5 are present before the court. The learned Counsel for the applicants submits that the applicant Nos. 1 and 5 are also representing the applicant Nos. 2, 3 and 4. The parties are seeking leave of this Hon'ble Court to compound the offence in the interest of justice, as it would be an abuse of process of law and

after arriving at an amicable settlement, the applicants would have to go through the ordeal of the criminal proceedings.

7 In view of this, taking into consideration that the parties have arrived at an amicable settlement and consent terms are drawn, this Court is inclined to allow the Petition. The learned Counsel for the respondent upon instructions submits that in view of the consent terms, the proceedings against the applicants be quashed as the claim of the respondent has been satisfied and he does not wish to proceed with proceedings any further.

8 In view of this, following order is passed :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The proceedings bearing C.C. No. 283/SW/2011 pending before the Metropolitan Magistrate, Railway Mobile Court, Andheri against the applicants for the offence punishable under Section 409, 420,

465, 467, 468, 471, 477A, 474 read with Section 34 of the Indian Penal Code is hereby quashed and set aside.

(iii) Bail bonds of the applicants are hereby cancelled.

(iv) The applicants stand acquitted in C.C. No. 283/SW/2011.

9 Rule is made absolute in the above terms.

(SMT. SADHANA S. JADHAV,J)

CERTIFICATE

**Certified to be true and correct copy of the original signed
Judgment/order.**