

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1258 OF 2011

M/s. Soham Metals Pvt. Ltd.
through Surinder Rishiram Gupta ..Applicant

v/s.

The State of Maharashtra & Ors ..Respondents

**CRIMINAL APPLICATION NO. 594 OF 2011
WITH
CRIMINAL APPLICATION NO.416 OF 2011
IN
CRIMINAL APPLICATION NO.594 OF 2011**

Mr.Vishal Surinder Gupta ..Applicant

v/s.

The State of Maharashtra & Ors ..Respondents

Mr. Suresh M. Sabrad for the Applicant in APL/1258/11 and for the Respondent No.2 in APL/594/11.

Mr.Rajiv Patil Sr. Adv., i/b/ V.V.Purwant for the applicant in APL 594/14.

Mr.S.K.Shinde, PP a/w. Mr. J.P.Yagnik, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : MARCH 19, 2015.**

P.C.

1. Both the above applications are filed under the provisions of 482 Cr.P.C. for quashing the proceeding of C.C.No.679/PW/2011 pending on the file the learned Addl. Chief Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai 10. The said case has arisen out of C.R.No. 214 of 2010 registered with Pydhonie Police Station on 4.10.2010 for the offence punishable under Section 403, 408, 409, 417, 418, 419, 420, 421, 422 , 424 of IPC. The said FIR is registered at the instance of respondent no.2 Shri Vivek Gupta in Application No.1258 of 2011, on behalf of the applicant in Criminal Application NO.1258 of 2011 i.e. M/s. Soham Metals Pvt. Ltd. The FIR is registered against Vishal Surinder Gupta who is the respondent no.3 in Criminal Application NO.1258 of 2011 and applicant in Criminal Applicant No. 594 of 2011.

2. During pendency of the trial of the said case, parties settled their dispute amicably and have approached this court for quashing of the proceeding of the subject case by filing this application.

3. On behalf of the respondent no.2 in Application No.594 of 2011

i.e. M/s. Soham Metals Pvt. Ltd., an affidavit is filed by one Surinder Kumar Gupta. The resolution annexed to the affidavit shows that the company has authorized Surinder Gupta as their authorized representative. In para 11, the respondent no.2 in Application NO.594 of 2011 has given no objection for quashing of the proceeding of the subject criminal case/

4. The respondent no.2 in Criminal Application No.1258 of 2011, at whose instance the initial complaint is filed on behalf of the company is not present despite service. He has also not filed any affidavit opposing the petition. Otherwise also the complaint was filed on behalf of the company and not in personal capacity of the respondent no.2 in Application No.1258 of 2011 i.e. Vivek Gupta and the company resolved to give no objection for quashing the proceeding of the subject criminal case. Not only that, the company has also filed separate petition for quashing the proceeding of the criminal case.

5. In the light of the above it can be seen that the dispute 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.

6. 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.

7. Accordingly, Criminal Application No.1258 of 2011 and Criminal Application No. 594 of 2011 are allowed in terms of prayer clause (b).

8. As a condition precedent for this order to take effect, the Applicant in Criminal Application No. 594 of 2011 shall pay costs of Rs.15000/- (Rupees Fifteen Thousand Only) to the cancer hospital, namely **Shanti Avedana Sadan**, situated at 216, Mount Mary Road, Bandra (West), Mumbai 400 050 and produce a copy of the receipt on the file of this application within a period of two weeks from today.

9. As none appears on behalf of the applicant/intervenor in the intervention application, being Criminal Application No. 416 of 2011, same is dismissed for default.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)