

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

CRIMINAL WRIT PETITION NO. 231 OF 2016

Chandrakant Kanhaialal Chordiya & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

WITH

CRIMINAL WRIT PETITION NO. 530 OF 2016

Ashok Malipachand Jain ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

...

Mr. Prashant M. Patil for Petitioner in WP. No. 231/2016.

Mr. Manoj Mohite for Petitioner in WP No. 530/2016 i/b.
Purshottam G. Chavan.

Mr. P. G. Sarda for Respondent No. 2 in both the Petitions.

Smt. S. V. Sonawane, APP for State in both W.P.

CORAM : A. S. OKA & A. A. SAYED, JJ.

DATE : 30 AUGUST, 2016.

P.C. :

1. Heard the learned counsel for the parties.
2. Rule.
3. Learned APP waives service for the 1st Respondent - State of Maharashtra, in both the matters. The learned APP also waives service for 3rd Respondent in Criminal Writ Petition No. 530 of 2016.

The learned counsel representing the 2nd Respondent (1st informant) waives service in both petitions. Forthwith taken up for final disposal.

4. In both the petitions, under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the prayer is for quashing the First Information Report No. 100/2015, registered with Dehu Road Police Station for the offences under Section 406, 420, 467, 468, 471, 504, 506, read with 34 of the Indian Penal Code and under Section 33, 34, 35 (A) of the Bombay Money-lenders Act and under section 4 of the Prevention of Money Laundering Act.

5. It appears that the civil suit was filed by the 1st petitioner in Criminal Writ Petition No. 231 of 2016 to which the 2nd Respondent (1st informant) is the 5th Defendant. In the said Civil Suit being Civil Suit No. 812 of 2015 filed in the Court of Civil Judge, Senior Division at Pune, there was a counter claim filed. The parties to the suit filed consent terms vide Exh. 73 on 4th December 2015. The learned Civil Judge proceeded to pass a decree in terms

of the consent terms on the very day. In the consent terms, there is clause that the plaintiff therein will apply for quashing the First Information Report and the 5th Defendant therein (1st Informant) will render necessary assistance to him. The prayer in these two petitions is for quashing of First Information Report on the ground of settlement.

6. We are perused the First Information Report. The dispute subject matter of the First Information Report has overwhelmingly a civil flavour and it appears to be a dispute over a property transaction. As evidenced by the consent decree passed by the Civil Court the dispute has been resolved. Therefore, the law laid down by the Apex Court in the case of ***Gian Singh V/s. State of Punjab & Anr***¹ will squarely apply to the case. In fact, there is an affidavit of support filed by the 2nd Respondent accepting that there is complete settlement. The learned APP pointed out that on the basis of First Information Report the police have carried out investigation for a period of approximately 1 year. The learned

¹ (2012)10 SCC 303

counsel appearing for 2nd Respondent states that the property subject matter of the dispute is to be used for construction of a church and a school. However, on instruction, he states that the 2nd Respondent/1st informant will pay a donation of Rs.50,000/- to Grace Foundation, an organization at pune. We accept the said statement.

7. Accordingly, we disposed of both the petitions by passing following order.

- 1) The First Information Report No. 100/2015 dated 22nd April 2015 registered with Dehu Road Police Station, Pune is hereby quashed and set aside.
- 2) We accept the statement made by the learned counsel appearing for the 2nd Respondent that the said Respondent will pay donation of Rs. 50,000/- to the said Grace Foundation. Affidavit of compliance shall be filed by the 2nd Respondent by producing the copy of a receipt

issued by the Grace Foundation within a period of one month from today. Rule is made absolute on above terms

3. For reporting compliance, the petition shall be listed under the caption of “Direction” on 7th October 2016.

(A. A. SAYED, J.)

(A. S. OKA, J.)