

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 82 OF 2016

Mr. Rajesh Agarwal & Anr.	...Applicants
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Sheelang Shah, Mr. Prateik Parija, and Mr. Hamdan Weldon,
i/b Probus Legal, for the Applicants.

Mrs. U.V. Kejriwal, APP for the State.

Mr. H.S. Kokhawala, i/b Mankani & Associates, for Respondent
No.2.

CORAM : RANJIT MORE &
S.C. GUPTE, JJ.
DATE : 4th February 2016

P.C. :

1. Heard learned Counsel appearing for the respective parties and learned APP for the State.

2. By this Application filed under Section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash FIR bearing C.R.No.34 of 2015 registered with Economic Offences Wing, Mumbai (erstwhile FIR No.138 of 2015 registered with N.M.Joshi Marg Police Station, Mumbai). The said FIR is registered at the instance of Respondent No.2, wherein the

allegations are with regard to commission of the offences punishable under Sections 409, 420, 120(B) of the Indian Penal Code, 1860.

3. Learned Counsel appearing for the respective parties submitted that pending investigation, the parties settled their disputes amicably and have arrived at settlement by filing Consent Terms in an appeal under the Arbitration Act, being Arbitration Appeal (Ld) No.619 of 2015 on the Original Side of this Court. Photocopy of the said Consent Terms are placed on record of the present Application. They submitted that in pursuance of the said Consent Terms arrived at between the parties, the Applicants have approached this Court for quashing the subject FIR filed with the consent of original complainant - Respondent No.2 herein. They have placed on record Resolution passed in the meeting of Board of Directors of Respondent No.2 held on 7th September 2015, whereby Respondent No.2 has authorised Mr. Soura Ghosh, its employee to consent for withdrawal / quashing of the subject FIR.

4. Mr. Soura Ghosh, the Authorised Representative of Respondent No.2-Company has filed an Affidavit dated 4th February 2016. In paragraph 4, he has given no objection for

quashing the subject FIR.

5. Mr. Soura Ghosh is present in in the Court. He confirms the contents of his Affidavit dated 4th February 2016. On specific query, he submitted that he has gone through the Affidavit and has fully understood the contents thereof and has no objection, if the subject FIR against the Applicants is quashed. He further stated that he is giving no objection for quashing the subject FIR out of his own free will and without there being any pressure or coercion.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature and are predominantly of commercial nature. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened. At the same time, in the facts and circumstances of the case, we are of the view that the costs need to be saddled on the parties for putting into motion the police and judicial mechanism for

settling their private disputes.

7. Hence, the Application is allowed in terms of prayer clause (a), subject to payment of costs of Rs.2,00,000/-. The Applicants shall pay cost of Rs.1,00,000/- to the "*Tata Memorial Cancer Hospital, Mumbai*" an institution that takes care of the advanced and terminally ill cancer patients. Respondent No.2 shall pay costs of Rs.1,00,000/- to the Police Welfare Fund, A/c No. 914010029005759, AXIS Bank, IFS Code-UTI B0000060.

For the quashment to take effect, the parties shall pay the said costs and produce the receipts thereof on the file of this Court within the period of four weeks from today. Failing to pay costs and produce receipt within stipulated time, the Criminal Application shall stand dismissed automatically without further reference to the Court and order quashing the said FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station / Magistrate that subject FIR or proceedings shall not be treated to have been quashed and that police / Magistrate shall proceed against the Applicants in accordance with law.

[S.C. GUPTE, J.]

[RANJIT MORE, J.]