

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 186 OF 2016

Mahesh Prasad Kamble.

..Applicant.

Versus

State of Maharashtra & Others.

..Respondents.

Ms. M. A. Ingale for the Applicant.

Mr. J. P. Yagnik, learned APP for the State.

Ms. Rupal Mishra for Respondent Nos.2 to 11.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **February 23, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties and learned APP for the State. The petition is filed for quashing the proceedings of Criminal Case No. 510/PW/2012 pending on the file of learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai, which has arisen from an FIR registered against the Applicant with Charkop Police Station for the offence punishable under sections 465, 466, 467, 468, 474, 420 & 406 read with 34 of the Indian Penal Code, 1860 and section 66(d) of the Information Technology Act, 2000, being CR No. 213 of 2010. The quashment is sought by consent of the Complainant and other aggrieved persons, who are arraigned as Respondent Nos. 2 to 11 herein.

2. The learned Counsel appearing for the respective parties submitted that during the course of trial of above criminal case, with the help and intervention of friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above criminal proceedings, by consent of original complainant and other aggrieved persons.

3. Respondent No.2 (Original Complainant) has filed an affidavit dated 20th February 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Applicant in the subject FIR and criminal case in view of the amicable settlement of disputes. He has solemnly affirmed that he has no objection for quashing the proceedings of the criminal case against the Applicant.

4. Respondent Nos. 3 to 11, who are the aggrieved persons have also filed separate affidavits. They have stated that the dispute with the Applicant is amicably settled and they are not interested in the criminal prosecution of the Applicant. They have stated that they

have no objection to quash the proceedings of the subject criminal case.

5. Respondent Nos. 2 to 11 are personally present before the Court. On specific query made by us, they submitted that they have made the said affidavits 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 FIR / criminal proceedings in question instituted at their instance against the Applicant.

6. We have perused the charge-sheet. Perusal of the same reveals that the Applicant is the trustee of Suman Education Society which runs L.N.College of Management. In the year 2010, the Applicant admitted total 47 students for MBA course without their college affiliated to Indira Gandhi National Open University by making false representation that MBA course in their college is affiliated to the said University and thereby cheated the students. The case of the Complainant is that while admitting the students for the said course, an amount of Rs.1.5 lacs was taken by the Applicant from each student, however, since the college was not affiliated to the said

University, they were required to go to some other college. Respondent Nos.3 to 11 were ultimately required to approach Consumer Forum for refund of the fees.

7. The learned Counsel appearing for the Applicant submitted that apart from Respondent Nos.3 to 11, there were 37 students who had taken admission to the said course in Applicant's college; they continued their education with the Applicant's college and have completed their course and passed out and they have no grievance against the Applicant.

8. The learned Counsel appearing for the Applicant having taken instructions from the Applicant, who is present in the Court, makes a statement that the Applicant as an act of repentance voluntarily pay costs of Rs.10 lacs as may be directed by this Court.

9. In these 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. We are of the

view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the Applicant in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the proceedings in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties be put to an end.

10. 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 in question. Accordingly, application is allowed in terms of prayer clause (a) subject to cost of Rs. 10 lacs. As undertaken by the Petitioner, the Petitioner is directed to pay costs of Rs. 10 lacs to “NAAM Foundation”, an NGO which is working with the object of development of disadvantaged villages and lives of people in rural part of our country and specifically the drought affected area in the State of Maharashtra where large number of farmers have committed suicide. For the

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

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]