

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO.249 OF 2016

Juhu Jagruti Trust and Others. .. applicants
Vs
The State of Maharashtra. .. Respondent
—
Shri Pritesh Rajgor for the Applicants.
Mrs. M.H. Mhatre, APP for the Respondent No.1.
Shri Pradip J. Jaiswal for the Respondent No.2.
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CORAM : A.S. OKA & P.D. NAIK, JJ
DATED : 21ST APRIL 2016

PC.

1. Rule. The learned APP waives service for the first Respondent State. The Advocate for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. PC.") is for quashing the First Information Report registered with Juhu Police Station, Mumbai, alleging the commission of an offence punishable under Sections 63 and 69 of the Copyright Act, 1957. The allegation is that the second Respondent is having a copyright in respect of a particular song and without licence of the second Respondent, the first Applicant played the said song in a function held by it. There is a reply filed by

Shri Sandeep Ashok Gaikwad, the authorized representative of the second Respondent. In the reply, the second Respondent has stated that the second Applicant on behalf of the first Applicant has expressed regret and in fact, subsequently, the second Applicant obtained a license from the second Respondent to play the said song. In Paragraph 15 of the said affidavit, the second Respondent has stated thus:

“15. I say that the offences which are forming the subject matter of said case are purely private and of personal in nature, affecting the business interest of the said Company, involving no loss to the public at large. I say that since the said offences are not compoundable in law, this Hon’ble Court can conveniently exercise its inherent jurisdiction for quashing the proceedings of said case. I say that Respondent No.2 has no objection if this Hon’ble Court is pleased to quash the proceedings of said case, in view of an amicable and out of Court settlement arrived at between the parties.”

3. We have perused the FIR. From the FIR, we are satisfied that the cause for registration of the FIR at the instance of the second Respondent was its business interest. Now that there is a complete settlement between the second Respondent and the Applicants, considering the fact that the offence does not have any impact on the society, by following the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹, the power under Section 482 of the Cr. P.C. deserves to be exercised. The FIR is registered on the basis of a commercial disputes. As the second

¹ (2012) 10 SCC 303

Respondent had set the criminal law in motion, the learned counsel appearing for the second Respondent states that the second Respondent will pay a sum of Rs.5,000/- by way of donation to the Police Welfare Fund. We accept the said statement.

4. Accordingly, we dispose of the Application by passing the following order.

ORDER :

(a) The Rule is made absolute in terms of prayer clause

(b) which reads thus:

“(b) issue order or direction for quashing the proceeding of MECR No.07/15 registered by Juhu Police Station, i.e., Respondent.”

(b) We accept the statement made by the learned counsel appearing for the second Respondent on instructions that the second Respondent will pay a donation in the sum of Rs.5,000/- to the Police Welfare Fund;

(c) The said donation amount shall be paid within a period of four weeks from today;

- (d) The second Respondent to file a compliance affidavit by placing a receipt on record within a period of six weeks from today;
- (e) If compliance affidavit is not filed, place this Application under the caption of “Directions” on 30th June 2016;
- (f) All concerned to act upon an authenticated copy of this order.

(P.D. NAIK, J)

(A.S. OKA, J)