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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.241 OF 2015

Suryakumar Doraiswamy Shivsagaran ...Applicant
vs.
State of Maharashtra and another ...Respondents

ALONG WITH
CRIMINAL APPLICATION NO.1114 OF 2016

Shri Nitin N. Baraskar ...Applicant
vs.
The State of Maharashtra & Anr. ...Respondents

Ms Gauri Jadhav i/b Mr.Tushar Jadhav for the
applicant in APL 241/2015 and for respondent No.2 in
APL/1114/2016

Mr.Tejesh Dane a/w Mr.Bharat Gadhavi i/b Tejesh
Dande & Associates for the applicant in APL
1114/2016 and for the respondent No.2 in
APL/241/2015

Mr.K.V.Saste, APP for respondent No.1 in both the
applications.

CORAM : A.S.OKA, &
A.A.SAYED, JJ.
DATE : OCTOBER 25, 2016

P.C.:

1 Rule. In Criminal Application No.241 of 2016 the learned counsel for the second respondent waives service, the learned APP waives service for the first respondent. In Criminal Application No.1114 of 2016, the learned counsel for the second respondent waives service. The learned APP waives service for the first respondent. Both the applications are forthwith taken up for final

disposal.

2 The applicant in Criminal Application No.241 of 2015 is the second respondent in Criminal Application No.1114 of 2016. The second respondent in Criminal Application No.241 of 2015 is the applicant in the Criminal Application No.1114 of 2016.

3 The prayer in the Criminal Application No.241 of 2015 is for quashing the FIR registered at the instance of the second respondent therein for the offence punishable under sections 420, 406, 407, 468, 471 of the Indian Penal Code. In Criminal Application No.1114 of 2016 the prayer is for quashing the FIR registered at the instance of the second respondent therein for the offence punishable under sections 420, 408, 465, 468, 471 read with section 34 of the Indian Penal Code. The FIR has been registered on the basis of the order passed by the learned Judicial Magistrate (First Class), Pune under sub-section (3) of section 156 of the Code of Criminal Procedure, 1973.

4 The first informant in both the applications have filed affidavits recording that there is an amicable settlement between the parties and therefore, they have agreed to give consent for quashing the FIR. The parties are relying upon the agreement dated 31st August 2016 recording a complete settlement of all the subsisting disputes between them.

5 Perusal of the allegations made in both the FIRs show that essentially the dispute was a commercial dispute over the business transactions. Now, there is a complete settlement of the commercial dispute as reflected from the agreement dated 31st August 2016. The second respondents in both the applications have paid donations of Rs.50,000/- each to a charitable organization of their choice. The documents showing payment of donations are produced for perusal of the Court.

6 The offences alleged cannot be said to be the offences against the society at large. On the contrary, the offences alleged are having predominantly civil flavour. Hence, this is a fit case to exercise power under section 482 of the Code of Criminal Procedure, 1973.

7 Accordingly, we pass the following order:

(I) Rule issued in Criminal Application No.241 of 2015 is made absolute in terms of prayer clause (a) which reads thus:

“(a) This Hon'ble Court by invoking the inherent jurisdiction under section 482 of Cr.P.C be pleased to quash and set aside the impugned FIR dated 10.1.2015 registered with Swargate Police Station, Pune vide C.R.No.10/2015 for the offences punishable u/s.420, 406, 407, 468, 471 of Indian Penal Code against the Applicant.”

(II) Rule issued in Criminal Application No.1114 of 2016 is made absolute in terms of prayer clause (B) which reads thus:

"(B) The Rule may kindly be made absolute, thereby quashing and setting aside the impugned FIR No.65/2015 dated 19.3.2015 registered with Police Station Swargate Pune u/s.420, 408, 465, 468, 471, 34 of I.P.C lodged as per order dated 9.3.2015 passed by learned Judicial Magistrate First Class, Pune as per section 156 (3) of Code of Criminal Procedure,1973, may kindly be quashed and set aside."

(A.A.SAYED,J.)

(A.S.OKA,J.)