

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.451 OF 2016

Anagha Kartik Borikar

Applicant

versus

The State of Maharashtra and another

Respondents

Ms.Gauri S. Rao for Applicant.

Ms.M.H.Mhatre, APP, for Respondent no.1.

Mr.Niranjan Mundargi with Mr.Chirag Dave i/by Legasis
Partners for Respondent no.2.

CORAM : A.S.OKA AND P.D.NAIK, JJ.

DATE : 20th April 2016

PC :

1. Not on board. Production of papers is allowed by 5.00 p.m.
2. Rule. Learned APP waives service for the first Respondent. Learned counsel for the second Respondent waives service. Forthwith taken up for final disposal.
3. This is an application invoking inherent powers of this Court under Section 482 of Code of Criminal Procedure, 1973 ('Code') preferred by the Applicant seeking quashing of the first information report ('FIR') dated 24th November 2015 vide CR

No.430 of 2016 registered with Kalachowki Police Station, Mumbai. The parties have amicably settled their disputes and therefore, preferred this application for quashing the above FIR, by consent.

4. The impugned FIR was registered by second Respondent alleging offence under Section 420 of the Code. The complainant was informed that the accused is selling BMW Cars at the concessional rate. The accused also represented that she is in a position to sell such cars at a heavy discount. On the basis of said representations, the complainant deposited an amount of Rs.10 lakh by RTGS in the account of accused on 13th July 2015 for the purpose of booking BMW 3 series sports car. However, for a long period of time, the car was not delivered and the accused kept on giving excuses. Hence, the second Respondent/Complainant lodged the impugned FIR.

5. It was submitted that both the parties have amicably settled the dispute. The second Respondent has filed an affidavit dated 20th April 2016 in this Court. It is stated in the said affidavit that the dispute between the parties have been now mutually and amicably settled. The parties have executed a Memorandum of Settlement on 5th February 2016 recording terms of the settlement. It is stated by Respondent no.2 that pursuant to the said memorandum of settlement, the Respondent no.2 has already received a sum of Rs.5 lakh and in

respect of the balance amount of Rs.5 lakh, the Applicant has handed over her a demand draft of Rs.5 lakh. The Applicant has thus paid Rs.10 lakhs to Respondent no.2. It is also stated in the said affidavit by Respondent no.2 that she has no objection to allow present application.

6. We have perused the FIR, affidavit of Respondent no.2 dated 20th April 2016 and the memorandum of settlement, which is annexed to the application. We are satisfied that this dispute is purely of private nature and public at large has no concern with the same. In view of the law laid down by the Apex Court in the case of **Gian Singh Vs. State of Punjab and another**¹, this is a fit case to exercise power under Section 482 of the Code of Criminal Procedure, 1973, by quashing CR No.430 of 2015.

7. Accordingly, we pass following order :

(a) Rule is made absolute in terms of prayer clause (a), which reads thus :

"(a) This Hon'ble Court be pleased to quash the entire complaint registered under FIR No.430 of 2015 against the present Applicants registered with Kalachowky Police Station, Mumbai dated 24th November 2015 for offence punishable under Section 420 of the IPC lodged by Respondent no.2 and any further proceedings thereof."

¹ (2012)10-SCC-303

(b) All concerned to act on an ordinary copy of this order duly authenticated by registry of this Court.

(PD.NAIK, J.)

(A.S.OKA, J.)

MST