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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.469 OF 2016

Anagha Kartik Borikar ...Applicant
vs.
The State of Maharashtra & Anr. ...Respondents

Ms Gauri S. Rao for the applicant
Ms M.H.Mhatre, APP for the respondent No.1
Ms Swapna Kode for respondent No.2

CORAM : A.S.OKA, &
P.D.NAIK, JJ.
DATE : APRIL 22, 2016

P.C.:

. Not on board. Taken on board.

1 Rule. Rule is made returnable forthwith. The
learned counsel for the second respondent waives
service. This is an application under section 482
of Code of Criminal Procedure, 1973. The applicant
and the second respondent are seeking quashing of
the FIR by consent. The said FIR bearing C.R.No. 390
of 2015 was registered on 20th October 2015 for the
offence punishable under section 420 of the Indian
Penal Code with Versova Police Station. The FIR was
lodged at the instance of the second respondent
against the applicant.

2 In the impugned FIR, in brief, it was alleged that the applicant had promised that she would provide a BMW motor car at concessional rate. It is alleged that the second respondent had parted with

various amounts from time to time at the representations of the applicant.

3 The applicant parted with total amount of Rs.35,79,609/- out of which the applicant returned an amount of Rs.1,00,000/-. The complainant thereafter realised that he has been cheated by the applicant and therefore, impugned FIR was lodged with the concerned police station.

4 The applicant and the second respondent have stated that they have amicably settled the dispute. The Memorandum of Settlement is being executed by both the parties which has been annexed to this application. In the said Memorandum of Settlement, it has been mentioned that both the parties have amicably resolved the differences. The second respondent has also filed an affidavit in this Court wherein it has been mentioned that he has no objection to quash the FIR which is the subject matter of this application. It is also mentioned that both the applicant and the the second respondent have amicably settled the dispute. It is also agreed by them that at the time of hearing of anticipatory bail application preferred by the applicant before this Court, the applicant had undertaken to deposit the amount of Rs.34,79,609/- with the Registry of this Court. It is further pointed out that the said amount has been deposited in this Court. It is now stated by both the parties that the applicant has no objection for withdrawal of the said amount by the second respondent from the

Registry of this Court.

5 We have gone through the FIR and other documents annexed to the application as well as affidavit tendered by the second respondent. From the documents, it is apparent that the dispute is purely of private nature and has no nexus with public at large. We are inclined to exercise powers under section 482 of the said Code for allowing this application. Reliance can be placed on the decision of the Apex Court in the case of *Gian Singh versus State of Punjab and another*¹ wherein the Apex Court has observed that when the disputes which are purely of private in nature are amicably settled, the High Court can exercise powers under section 482 of the Code of Criminal Procedure, 1973 for quashing the said proceedings.

6 In view of the observations of the Apex Court and also going through the documents annexed to this application as well as affidavit filed today, we are inclined to allow this application in terms of prayer clauses (a) and (c) which read thus:

“(a) This Hon'ble Court be pleased to quash the entire complaint arising out of FIR 390 of 2015, against the present Applicant registered with Versova Police station, Mumbai dated 20th November 2015 for offence punishable under section 420 of the I.P.C lodged by the respondent No.2 and any further

1 (2012) 10 SCC page 303

proceedings thereof;

(b)...

(c)That this Hon'ble Court be pleased to direct the Registry to release the amount deposited in A.B.A. 1816 of 2015 the sum of Rs.34,79,609/- (Thirty four lakh seventy nine thousand six hundred and nine only) in favour of the Respondent No.2 on his making an application to the Registry subsequent to the quashing of complaint bearing FIR No.390 of 2015 registered with Versova Police."

7 We however make it clear that if any interest is accrued on the amount deposited by the applicant, the said interest amount may be paid to the State of Maharashtra by way of costs.

8 Parties to act upon an authenticated copy of this order.

(P.D.NAIK,J.)

(A.S.OKA,J.)