

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1685 OF 2016

Mr. Sanjay Shivilal Panchal & Others.

... Petitioners.
(R.1&2 -Accused,
R3-Complainant)

V/s.

State of Maharashtra & Anr.

... Respondents.

Mr. Ashok Mundargi, Senior Advocate i/by Auroma Law for the
Petitioners.

Mr. K. V. Saste, APP for the State.

**CORAM : NARESH H. PATIL AND
A. M. BADAR, JJ.**

DATE : 05th MAY, 2016.

P.C. :

1 Petitioner Nos.1 and 2/original accused and
Petitioner No.3/informant by this joint petition are praying for
quashing and setting aside FIR No. 136 of 2011 lodged against
Petitioner Nos.1 & 2 by Petitioner No. 3 and consequent
chargesheet filed against Petitioner No.1, resulting in
registration of Criminal Case No. 04/PW/2012 for the offences
punishable under sections 465, 467, 468, 471 and 420 read
with section 34 of the Indian Penal Code.

2 Heard learned senior counsel appearing for
Petitioners. He vehemently argued that Petitioner No.3/

informant is director of the company by name Amu Shares & Securities Ltd., dealing with the business of selling and purchasing shares of various companies and rest of the Petitioners were his employees. Learned senior counsel further submitted that in the year 2011, Petitioner No. 3 realized that certain amounts have been withdrawn from the Company's account, resulting in mis-appropriation by Petitioner Nos. 1 and 2, by forging his signatures on several cheques. Learned counsel further submitted that this has resulted in registration of the crime in question on the basis of FIR lodged by Petitioner No.3. According to the learned senior counsel, now the Petitioners have resolved the matter amicably and as such Petitioner No.3/informant does not want to prosecute the criminal case bearing C.C.No. 04/PW/2012, pending on the file of the learned Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai. According to the learned counsel for the Petitioners, no public law element is involved in the present case.

3 We have also heard the learned Additional Public Prosecutor appearing for the State, who submitted that now the charge-sheet is filed against the accused persons.

4 We have carefully perused the chargesheet/ According to the prosecution case, employees of Petitioner No. 3/informant have mis-appropriated the amounts of the company, allegedly by forging signatures of Petitioner No. 3 on

several cheques of the company. Now the parties have amicably settled the dispute between them. Petitioner No. 3/informant is present in-person before this court. He is duly identified by his learned counsel. Upon being asked, Petitioner No. 3 states that the dispute is amicably settled by him with the other Petitioners and now he does not want to prosecute the criminal case initiated at his instance.

5 On perusal of the charge-sheet, it is seen that the offence alleged is personal in nature and no public law element is involved in it. As the parties have mutually settled the dispute between them, chances of conviction of the accused are too remote. Continuation of criminal proceedings in such eventuality will amount to wastage of time of the trial court, apart from inconvenience to the parties. Hence, in order to prevent abuse of process of court, the criminal case in question needs to be quashed and set aside.

6 At the same time we note that for settling their grievance, the Petitioners, more particularly Petitioner No.3 has used machinery of the police as well as the courts, causing loss of public time and fund. As such suitable cost needs to be imposed on the petitioners. Learned senior counsel for the Petitioners submits that the petitioners consents for depositing an amount of Rs. One lac towards donation to NAAM FOUNDTION for its noble cause of helping drought affected

people in the State. As such we direct the Petitioners to deposit an amount of Rs. One lakh with the NAAM FOUNDATION, as donation for espousing the public cause, as a condition for quashing the proceedings.

7 In the result, the Petition is allowed in terms of prayer clause (a). FIR bearing Crime No. 136 of 2011 lodged on 16th June, 2011 against Petitioner Nos. 1 and 2 by Petitioner No.3/informant with M.R.A. Marg Police Station, Mumbai for the offences punishable under sections 465, 467, 468, 471, 420 read with 34 of the Indian Penal Code and resultant Criminal Case No.04/PW/2012, pending on the file of learned Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai against the accused persons is quashed and set aside subject to payment of Rs. One lakh by the Petitioners to NAAM FOUNDATION and deposit of receipt of the said amount with the registry of this court.

8 The Petition is disposed of in the above terms.

(A. M. BADAR, J.)

(NARESH H.PATIL,J.)

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