

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.529 OF 2016

...	...Applicant
Arthur Patrick Casserly	
v/s.	
The State of Maharashtra & anr.	...Respondents

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Ms.Sakina Kothari for the Applicant.
Dr.F.R.Shaikh, APP for Respondent No.1.
Mr.Suresh Dubey for Respondent No.2.
Mr.Rajesh Patil for intervenor (Mr.Vijay Verurkar & Mr.Milind Pawar)
Mr.Nilesh R.Pandey for intervenor (Mr.Rajesh Sonawane)

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CORAM : A.S.OKA &
A.A. SAYED, JJ.

DATED : 9 JUNE 2016

P.C.:

Heard the learned Counsel appearing for the Applicant. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1972 (for short "the said Code") is for quashing the First Information Report registered for the offence punishable under Section 406 read with Section 34 of the Indian Penal Code. The Applicant is the Chief Operating Officer of the Cambata Aviation Pvt.Ltd. The First Information Report was lodged by one of the employees of the said Company. The allegation in the First Information Report is that the Company deducted large amounts from the salary payable to its employees for the purpose of depositing the same in Cambata Employees' Co-operative Credit Society. The allegation in the

First Information Report is that firstly there is a gross delay in depositing the amount deducted from the salary of the employees and secondly on the date of filing of the complaint, a sum of Rs.2.20 crores was still not deposited.

2. Learned Counsel for the Applicant is seeking quashing on the ground of settlement. A consent Affidavit has been filed by the First Informant. In the consent Affidavit, it is not the stand of the First Informant that the entire amount deducted from the salary of all the employees of the Company has been deposited by the Company. The stand taken appears to be that the Applicant was not responsible for any financial decisions and he was responsible only for the day to day operational affairs. Thus, the quashing is not sought on the ground of settlement. The quashing is sought on the ground that according to impression of the First Informant, the Applicant has played no role in the offence.

3. Today, intervention is sought by the other employees of the Company of the Applicant. They claim that there are still large amounts which are not deposited by the Company.

4. Considering the extent of misappropriation, only on the basis of the impression of the First Informant, who is one of the several affected employees that the Applicant has played no role, at this stage, First Information Report cannot be quashed. Whether the Applicant has played any role is a matter for the investigation by the police. This is not a case where the entire alleged misappropriated amount has been brought back. In fact, that is not the case of the complainant.

5. At this stage, we are of the view that the investigation into the role played by the Applicant is necessary. Therefore, this is not a fit case to exercise extra ordinary jurisdiction of this Court under Section 482 of the said Code to quash the First Information Report only on the basis of the consent of the First Informant. We, however, make it clear that we have made no adjudication on the merits of the case of the Applicant and his alleged involvement in the offence. Subject to what is observed above, the Application is rejected.

(A.A. SAYED, J.)

(A.S.OKA, J.)