

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.602 OF 2014

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Mr.Prakash H.Gadiya	...Applicant
v/s.	
Mrs.Heena G.Boricha and ors.	...Respondents

...

Mr.Anand Mishra i/b Mr.Ashok M.Sarogi for the Applicant.
 Mr.Vaibhav V.Ugle for the Respondent No.1.
 Mr.K.V.Saste, APP for the Respondents Nos.2 & 3.

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CORAM : A.S.OKA &
A.A. SAYED, JJ.
DATED : 1 SEPTEMBER 2016

P.C.:

Heard the learned Counsel appearing for the Applicant.

2. Rule. Learned Counsel appearing for the first Respondent waives service. Learned APP waives service for the second and the third Respondents. Forthwith taken up for final disposal.

3. The prayer is for quashing the First Information Report alleging commission of offences punishable under sections 354A, 506 and 509 of the Indian Penal Code. The First Information Report has been registered at the instance of the first Respondent. The First Information Report discloses that the first Respondent was an employee of RTG Share Broking Ltd. as an Accountant and the present Applicant was a Director of the said Company. It appears that the first Respondent addressed a letter to the

Investigating Officer, a copy of which is annexed as Exhibit 'I' to the Application, in which she has stated that she wants to withdraw her complaint. There is an Affidavit-cum-Declaration filed by the first Respondent, which is annexed as Exhibit 'J' to the Application, in which she has stated that due to mediation of some reliable persons, there was a settlement and therefore, she does not desire to prosecute the present Applicant. The second Respondent has also filed an Affidavit recording her no objection and stating that the dispute between herself and the Applicant has been sorted out.

4. We have perused the statement of the first Respondent, on the basis of which the First Information Report has been registered. The First Information Report has been registered on 21 March 2014. All the incidents alleged therein have occurred from 3 September 2013 to 24 February 2014. There is a gross delay in registration of the First Information Report by the first Respondent. It is not the case of the first Respondent that immediately after the objectionable incidents and especially the incidents of 15 February 2014 and 24 February 2014, she lodged a complaint against the Applicant with any Authority. If the incidents alleged would have really happened, surely the first Respondent would have immediately filed a complaint with some Authorities in some form.

5. Therefore, even without there being any settlement, prima facie it is very difficult to accept the case of the first Respondent. On the basis of such belated First Information Report, the police were required to carry out investigation. The first Respondent on her own has donated a sum of Rs.10,000/- to Cancer Patients' Aid Association on 31 August 2016. A receipt is produced for perusal of the Court.

6. Now, there is a settlement between the Applicant and the first Respondent. In view of settlement, chances of conviction of the Applicant are very bleak. In fact, no purpose would be served by continuing the prosecution.

7. Hence, this is a fit case where the powers under section 482 of the code of Criminal Procedure, 1973 deserve to be exercised by quashing the First Information Report. Accordingly, we pass the following order:

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

“(a) That this Hon'ble Court be pleased to quash the FIR No.173 of 2014 u/s 354(A), 506, 509 of IPC registered with Bandra (W) Police Station, Mumbai on 21/3/2014 against the Applicant.”

(A.A. SAYED, J.)

(A.S.OKA, J.)