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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.593 OF 2015**

Ratansingh Motisingh Rathore and Anr.	... Applicants
Vs.	
The State of Maharashtra and Anr.	... Respondents

**WITH
CRIMINAL APPLICATION NO.1162 OF 2014**

Surendra Singh Amarsingh Champawat and Anr.	... Applicants
Vs.	
The State of Maharashtra and Ors.	... Respondents

Mr. Shrikant Manjarekar i/by Mr. Samir Sarambalkar for the Applicant in Cri. Appln/593/2015.

Mr. Satyan N. Vaishnav a/w Ms. Nupur J. Mukherjee i/by M/s. N.N. Vaishanawa & Co. for the Applicant in Appln/1162/2014 and for Respondent No.2 in Appln/593/2015.

Ms.M.H. Mhatre, APP for Respondent No.1 in Appln/593/2015 and for Respondent Nos.1 and 2 in Appln/1162/2014.

Mr. Sunil Vyas i/by Mansukhlal Hiralal & Co. for Respondent No.3 in Appln/1162/2014.

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

DATE : 1st JULY, 2016

PC.

1 Rule in both the applications. The learned APP waives service for the State of Maharashtra in both the Applications. The learned counsel appearing for the second Respondent in Criminal

Application No.593 of 2015 waives service. The learned counsel appearing for the third Respondent in Criminal Application No.1162 of 2014 waives service.

2 Criminal Application No.593 of 2015 is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") for quashing the FIR bearing MECR No.3 of 2011 registered with the Borivali Police Station on the basis of an order passed by the learned Magistrate under Sub-section (3) of Section 156 of the Cr.P.C. The second Respondent in Criminal Application No.593 of 2015 is the first informant. Criminal application No.1162 of 2014 is also filed under Section 482 of the Cr.P.C for quashing the FIR filed by the third Respondent therein for the offences punishable under Sections 408, 465, 467, 468, 471 and 420 read with Section 34 of the Indian Penal Code. The third respondent in Criminal Application No.1162 of 2014 who is the first informant in the FIR subject matter of the said criminal application is the first applicant in Criminal Application No.593 of 2015. The second applicant is his brother. The first informant in the FIR subject matter of Criminal Application No.593 of 2015 is the second Applicant in Criminal Application No.1162 of 2014. We have perused both the First Information Reports. The subject matter of the First Information Reports is a commercial dispute between the parties. It appears that in Suit No.2269 of 2008 filed by the first Applicant in

Criminal Application No.593 of 2015 against the first applicant in Criminal Application No.1162 of 2014 in this Court which was subsequently transferred to the City Civil Court, consent terms were filed on 6th July, 2015. In the consent terms, the first informants in both the FIRs agreed not to prosecute the criminal proceedings. The Suit has been decreed by the City Civil Court in terms of the said consent terms.

3 In Criminal Application No.1162 of 2014 the third respondent has filed an affidavit setting out complete settlement between the parties and recording his no objection for allowing the application. Similarly, the second respondent in Criminal Application No.593 of 2015 has filed a similar affidavit. After having perused the FIR, we find that commercial dispute between the parties led to registration of both FIRs. Now, there is a complete settlement in the commercial dispute. Therefore, the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab¹ will squarely apply. Accordingly, a case is made out for quashing the FIRs by exercising powers under Section 482 of the Cr.P.C. Accordingly, we pass the following order :-

ORDER

- (i) Criminal Application No.593 of 2015 is allowed in terms of prayer clause (a) which reads thus :-

1 (2012) 10 SCC 303

“(a) That this Hon'ble Court be pleased to quash and set aside the Charge Sheet in F.I.R. bearing No.MCCR No.03 of 2011, registered with Borivali Police Station, before the Learned Metropolitan Magistrate 26th Court at Borivali, Mumbai, in C.C. No.2600066/SW/10.”

- (ii) Criminal Application No.1162 of 2014 is allowed in terms of prayer clause (a) which reads thus :-

“(a) That this Hon'ble Court be pleased to quash and set aside the Charge Sheet dated 20th June, 2012 filed by D.C.B., C.I.D., Mumbai, in C.R.No.171 of 2009 dated 31st December, 2009 pursuant to FIR bearing No.468 of 2009 dated 14th December, 2009, registered with Borivali Police Station before the Additional Chief Metropolitan Magistrate's 37th Court, at Esplanade Court at Mumbai, in Criminal Case No.3700682/PW of 2012.”

- (iii) All concerned to act upon an authenticated copy of this Judgment and Order;

- (iv) Bail Bonds furnished by the concerned persons before the concerned Court stands cancelled. If applicants in Criminal Application No.1162 of 2014 have deposited cash security, the same shall be refunded to them by the concerned Court.

(A.A. SAYED, J)

(A.S. OKA, J)