

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2415 OF 2016

Munir Maulana Sattar Khan

.... Petitioner

Versus

The State of Maharashtra & Anr.

.... Respondents

Mr. Vaibhav Ugale i/b. Mr. Hassnain Kaazi Sayyed for Petitioner.

Mrs. S.V.Sonawane, APP for Respondent No. 1.

Mr. Bhalchandra S. Shinde for Respondent No. 2.

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

DATE : SEPTEMBER 2, 2016.

P.C.

1. Heard the learned counsel appearing for the petitioner.
2. Rule.
3. The learned APP waives service for the respondent no.1. The learned counsel appearing for the respondent no.2 waives service for him.
4. Forthwith taken up for final disposal.
5. The prayer in this petition under Article 226 of the Constitution of India is for quashing of first information report lodged at the instance of the respondent no.2 for the offences punishable under Sections 420 and 406 of the Indian Penal Code.
6. In the statement of the respondent no.2 on the basis of which first information report was registered, he has alleged that he was induced by the petitioner to acquire a flat. The present petitioner

booked a flat which described in the statement. The case made out by the respondent no.2 is that he paid a sum of Rs. 8,50,000/- by two cheques and cash amount of Rs. 13,00,000/-. Thereafter it was revealed that the petitioner had not paid the said amount to the builder. The petitioner returned a sum of Rs. 6,25,000/- in cash and a cheque amount of Rs. 8,50,000/-. The grievance of the respondent no.2 is that by not repaying a sum of Rs. 6,75,000/-, the petitioner has been cheated.

7. In terms of order passed in Anticipatory Bail Application No. 813 of 2016 filed by the petitioner, a sum of Rs. 6,75,000/- has been deposited in this Court. There is an affidavit-in-reply filed by the respondent no.2 in which he has stated that the dispute with the petitioner has been amicably settled. He stated in the affidavit that he has received a sum of Rs. 6,75,000/- from the petitioner on 11th July, 2016. A Receipt of the said amount is annexed to petition.

8. Perusal of the first information report shows that the subject matter of the first information report was predominantly a civil dispute. In fact for such a dispute, criminal law ought not to have been set in motion. The learned counsel appearing for the respondent no.2 has deposited a sum of Rs. 10,000/- with the Police Welfare Fund by way of donation.

9. In view of the settlement of the commercial dispute, this is a fit case where the power of this Court under Section 226 of Constitution of India should be exercised for quashing and set-aside the first information report. The learned counsel for the petitioner has no objection, if the respondent no.2 withdraws a sum of Rs. 6,75,000/- deposited in this Court, in terms of the order passed in the Anticipatory Bail Application.

10. Accordingly, we pass the following order :

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

“(a) That this Hon'ble Court be pleased to pass appropriate writ, order and direction QUASHING of FIR No. 145/2016 registered with Wanwadi police station for the offence punishable u/s 420 and 406 of IPC.”

- (2) By consent of the parties, the petitioner is permitted to withdraw a sum of Rs. 6,75,000/- deposited in this Court in Anticipatory Bail Application No. 813/2016 together with interest, if accrued thereon.

11. All concerned to act upon authenticated copy of the operative part of the order.

(A.A.SAYED,J.)

(A.S.OKA,J.)