

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

CRIMINAL APPLICATION NO.799 OF 2015

Bapusaheb Guthale

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Mr. Vivek Gore, Advocate for the Applicant.

Mrs. M. H. Mhatre, APP for the Respondent No.1.

Mr. Cecil San Philip a/w. Mr.Adwaita Chatterjee, Advocate for the Respondent No.2.

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**CORAM : A.S. OKA AND
P.D. NAIK, JJ.**

DATED : MARCH 29, 2016.

P.C.

Rule.

2 The learned APP waives service for respondent no.1.
The learned counsel appearing the 2nd respondent waives service.
Forthwith taken up for final disposal.

3 The prayer in this application under Section 482 of
the Code of Criminal Procedure, 1973 is for quashing a first
information report. Charge sheet is filed against the applicant

alleging commission of offence punishable under Section 420 read with Section 34 of the Indian Penal Code. The prayer for quashing is made on the basis of the settlement between the applicant and the second respondent which is the first informant.

4 The applicant was an employee of the second respondent. The allegation in the complaint filed by the 2nd respondent is that the applicant placed supply orders on behalf of the 2nd respondent at a price which was much more than the market price. The supply orders were in relation to six lifts. The learned APP pointed out that while filing the charge sheet, Section 408 of the Indian Penal Code has been added.

5 In the FIR, the present applicant and one Sandeep Mehta were shown as accused. Even the said Sandeep Mehta was an employee of the 2nd respondent. We find that the said Sandeep Mehta filed criminal application no.575 of 2014 for quashing the same offence and by judgment and order dated 23rd June, 2014 another Division Bench proceeded to quash the proceedings on the basis of amicable settlement between him and the 2nd respondent.

6 2nd respondent has tendered an affidavit of Mr.Adwaita Bhavani Chatterjee authorized representative of the 2nd respondent company. The said affidavit refers to the apology tendered by the applicant which was accepted by the 2nd respondent on a humanitarian and compassionate grounds. He stated that the 2nd respondent is no longer interested in prosecuting the criminal proceedings and accordingly, a resolution has been passed by the Board of Directors on 12th May, 2014. The affidavit also records that allegations and counter allegations have been withdrawn by the parties. The affidavit also records that necessary steps will be taken by the 2nd respondent to enable the applicant to withdraw the provident fund amount. Even Form-16 showing the income tax deduction from the salary will be issued to the applicant.

7 Thus, it appears that there is an overall settlement of all the subsisting disputes between the applicant and the 2nd respondent. We find that the offence alleged is of private nature and does not have any serious impact on the society. In view of the over all settlement of disputes between the applicant and the 2nd respondent, no purpose will be served by continuing the criminal proceedings. Hence, in the light of the law laid down by

the Apex Court in the case of ***Gain Singh v. State of Punjab and Anr***¹, this is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure, 1973.

8 Accordingly, we pass the following order:

:: ORDER ::

- (i) Rule is made absolute in terms of the prayer clause (a);
- (ii) all concerned to act upon an authenticated copy of this order.

(P.D. NAIK, J.)

(A.S. OKA, J.)

¹ 2010 (10) SCC 303