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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.1027 OF 2016

Mayur H. Dedhia & Ors. ...Applicants
vs.
The State of Maharashtra
and others ...Respondents

Mr.Sandeep Karnik for the applicants
Dr.F.R.Shaikh, APP for the respondent No.1
Mr.Himanshu U. Pradhan i/b Mr.Mohan Bhosale for
respondent No.2

CORAM : A.S.OKA, &
A.A.SAYED, JJ.
DATE : SEPTEMBER 22, 2016

P.C.:

1 Rule. The learned APP waives service for the first respondent. The learned counsel for the second respondent waives service. Forthwith taken up for final hearing.

2 The prayer in this application in this application under section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr PC') is for quashing the offence punishable under sections 420, 465, 468, 471 read with section 120-B of the Indian Penal Code. The prayer for quashing is made on the ground of settlement between the parties. There is an affidavit filed by Gunjan Dhruvnath Sharma, the first informant (second respondent) who lodged the complaint on behalf of the company Arnold Holdings Limited. The resolution of the Board of Directors

of the said company dated 18th June 2016 granting authority to the said Gunjan Dhruvnath Sharma is annexed to the affidavit. The affidavit records that the company has received a sum of Rs.22,50,000/- from the sister of the first applicant by one pay order and three cheques. It is stated that the said amount is received by the company in full and final settlement of its claim towards repayment of the gold loan.

3 The allegation in the FIR is that against the pledge of alleged gold ornaments, substantial amount was borrowed by the first applicant. It is stated that out of the total amount of Rs.32,18,600/- borrowed by the first applicant, he has repaid a sum of Rs.11,01,568/-. The allegation is that fabricated certificate of Shri Ganpatlal M. Jain was submitted and by not repaying a sum of Rs.21,11,562/-, the first applicant cheated the company. The second respondent by filing an affidavit has given no objection in view of acceptance of sum of Rs.22,50,000/- by his company in full and final settlement of its claim.

4 Apart from settlement, in our view, the dispute reflected from the complaint has predominantly a civil flavour. In fact, for recovery of a money claim, criminal law was set in motion. The second respondent has paid a donation of Rs.25,000/- to the Maharashtra State Legal Services Authority.

5 In view of the settlement, in the light of the

principles laid down by the Apex Court in the case of Gian Singh versus State of Punjab and another¹, the application must succeed. Hence, we pass the following order:

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

"(a) this Hon'ble Court may under section 482 of Cr.P.C quash and set aside the said FIR bearing C.R.No.15 of 2016 dated 16th January 2016 registered with Naya Nagar Police Station, Mumbai for offences punishable under Section 420, 465, 468, 471 and 120 (B) of Indian Penal Code on such terms and conditions as this Hon'ble Court may deem fit and proper in the circumstances of the case."

(II) All concerned to act upon an authenticated copy of this order.

(A.A.SAYED,J.)

(A.S.OKA,J.)