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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1082 OF 2016

Percy Jamshedji Ichhaporia and Ors.	... Applicants
Vs.	
The State of Maharashtra and Ors.	... Respondents

Mr. Shakeeb Shaikh i/by S.B. Legal for the Applicants.
Mrs. S.V. Sonawane, APP for the Respondent No.1.
Mr. Pradeep Dube i/by M/s. Solicis Lex for the Respondent Nos.2 to 4.

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

DATE : 14th OCTOBER, 2016

PC.

1 Rule. The learned APP waives service for the first Respondent and the learned counsel appearing for the Respondent Nos.2 to 4 waives service. Forthwith taken up for final disposal.

2 Prayer in this application under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.PC.") is for quashing the First Information Report registered for the offences under Sections 200, 190, 420, 418, 403, 406, 409 of the Indian Penal Code. The FIR was registered on the basis of an order dated 16th February, 2016 passed by the learned Metropolitan Magistrate 66th Court, Andheri, Mumbai on the basis of a complaint filed by the second Respondent.

3 The prayer for quashing is sought on the basis of the settlement between the Applicant and second to fourth Respondents. There is an affidavit filed by Mr. Mahendra Kabnukar, Managing Director of the second Respondent. The said affidavit is on pages 163 and 164 of the application. He has stated that he is the authorised representative of the complainant. He stated that the Applicant and the second Respondent have entered into Settlement Deed/ Consent Terms on 20th June, 2016. The amounts received by the second Respondent under the Settlement Deed are also mentioned in the said affidavit. The affidavit discloses that a sum of Rs.50 Lakhs has been paid by the present Applicants to the second Respondent as set out in the said affidavit. The learned counsel appearing for the second to fourth Respondents states that the said Mr. Mahendra Kabnukar, Managing Director of the second Respondent is personally present in the Court. The second to fourth Respondents have no objection for quashing the FIR.

4 We have perused the complaint filed before the learned Metropolitan Magistrate on the basis of which the FIR was registered. We find that the grievance made therein is nothing but a commercial/ business dispute between the second Respondent and the present Applicants. Therefore, in view of the law laid down by the Apex Court

in the case of Gian Singh Vs. State of Punjab¹, powers under Section 482 of the Criminal Procedure Code, 1973 can be exercised. In a predominantly commercial/ business dispute the second Respondent had set the criminal law in motion, the police were made to investigate. On 20th June, 2016, the Settlement Deed/ Consent Terms was executed. As per the terms incorporated therein the second Respondent had received a sum of 50,00,000/- from the Applicants. Therefore, the second Respondent on his own has paid donation of Rs.75,000/- to a charitable organisation known as “Missionaries of Charity at Kolkata”. A photocopy of the said receipt is placed on record. Accordingly, the application must succeed and we pass the following order :-

ORDER

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

“(a) That this Hon'ble Court may be pleased to call for the records and proceedings pertaining to FIR vide MECR 2 of 2016 lodged before the Amboli Police Station and Criminal Complaint being CC No.380/PW/015 filed before the Ld Metropolitan Magistrate and after satisfying itself as to the legality and propriety of the said FIR and the said Criminal Complaint and the order dated 16th February, 2016 passed in the said

1 (2012) 10 SCC 303

Criminal Complaint, may kindly set aside the same
and quash the said FIR.”

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

(A.A. SAYED, J)

(A.S. OKA, J)