

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

CRIMINAL APPLICATION NO. 1112 OF 2016

Sharad Gabaji Mule ... Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Ms. Vrushali L. Maindad, Advocate for the Applicant.

Mr. K. V. Saste, APP for the State-Respondent.

Mr. Abhijeet Devkhile h/f. Abhijeet Desai for the Respondent No.2.

**CORAM : V. M. KANADE AND
Ms.NUTAN D.SARDESSAI,JJ.**

DATE : 09th DECEMBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of the Applicant, the learned counsel appearing on behalf of the Respondent No.2-Complainant and learned APP for the State.

2 It is alleged by the complainant that the amount which was given to the applicant for depositing the same as octroi in the municipal corporation was mis-appropriated.

3 It is submitted that now both the parties have settled the dispute and the applicant has paid part of that amount to the Respondent No.2 and has given security for the payment of the rest of the amount. The applicant has deposited Rs. 52,24,169/- towards the said octroi duty.

4 It appears from the report submitted by the learned APP for the State that the Corporation has accepted the said amount and mis-used it, since it was paid voluntarily by the Respondent No.2. The report further states that the goods imported by the Applicant were not subject to the payment of octroi since there was exemption granted to the Applicant.

5 Be that as it may, the parties have amicably settled the dispute. The complainant is present in the court and he has informed us that he has no objection if the complaint is quashed. The applicant is also present in the court. The dispute arises in this case is the dispute between the employer and employee and as such, therefore, in view of the judgement of the Apex Court in the case of **Gian Singh vs. State of Punjab & Anr.**, (2012) 10 Supreme Court Cases 303, there is no impediment in quashing this complaint.

6 Criminal Application is allowed in terms of prayer clause (I). Needless to state that the Applicant may take

recourse to such a remedy which is available to him to recover the amount of Rs.52 lakhs which has been paid by him to the Corporation, if so advised.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J)

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