

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 3334 OF 2016

Ms. Ameera Shah.

.. Petitioner

Vs

State of Maharashtra and Another.

.. Respondents

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Shri Abhay Dediwal along with Shri Mandar Bangale i/b M/s. Jayakar & Partners for the Petitioner.

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

Shri Amit Shroff for the Respondent No.2.

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

DATED : 24TH OCTOBER 2016

PC.:

1. Rule. The learned APP waives service for the first Respondent. The Advocate for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under Section 406 and 420 of the Indian Penal Code. The FIR was registered at the instance of M/s. Gem Star Company, a Partnership Firm, of which the second Respondent is

claiming to be a partner. M/s. Gem Star Company had filed a Summary Suit in the City Civil Court against the present Petitioner and the Firm M/s. Allure. A Mediator was appointed by the City Civil Court in the said suit. Accordingly, a settlement is arrived at before the learned Mediator and consent terms were signed by the parties to the suit before the learned Mediator on 23rd August 2016. The learned Judge of the City Civil Court disposed of the said suit in terms of the said settlement by an order dated 23rd August 2016. The quashing of FIR has been sought on the basis of the said settlement. There is an affidavit filed by the second Respondent in which he has recorded no objection for quashing the FIR in view of this settlement.

3. Perusal of the FIR shows that it is really an outcome of the commercial dispute between the partnership firm of the second Respondent and the Applicant. Now there is a complete settlement of the commercial dispute. In the peculiar facts of the case, the offence cannot be said to be against the Society at large. Therefore, in view of the law laid down by the Apex Court in the decision in the case of ***Gian Singh v. State Bank of Punjab***¹, this is a fit case to exercise the power under Section 482 of the CrPC for quashing the criminal proceedings especially when by taking recourse to the mediation, the contesting parties have settled their dispute.

1 (2012) 10 SCC 303

4. Accordingly, we pass the following order.

ORDER :

- (a) The chargesheet bearing No.C.C. No.4/P/2001 pending before the Ld. Additional Chief Metropolitan Magistrates' 19th Court, Ballard Pier, Mumbai, arising out of FIR No.141 of 1999 registered by GB CB CID, Mumbai, is hereby quashed and set aside.
- (b) Rule is accordingly made absolute.
- (c) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)