

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4310 OF 2014

Mr. Hetal Madhubhai Mehta. .. Petitioner

Vs

The State of Maharashtra and Others. .. Respondents

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Shri Mahesh Vaswani along with Ms. Dharini Nagda i/b Ms. Anuradha S. Shinde for the Petitioner.

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

Shri M.K. Kocharekar i/b Shri Ganesh Bhujbal and Shri Sandeep C. Kekane for the Respondent No.2.

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

DATED : 1ST AUGUST 2016

PC.

1. Heard learned counsel appearing for the Petitioner. The prayer in this Petition under Article 226 of the Constitution of India is for quashing the First Information Report (FIR) being C.R. No.84 of 2014 registered for the offences punishable under Sections 419, 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code.

2. The first informant along with her husband had taken a joint policy in the sum of Rs.10,00,000/- (Ten Lakhs) of the Life Insurance Corporation of India (LIC). The allegation in the FIR filed by the second Respondent is that the second Respondent intended to cancel the said policy known as “Jeevan Sathi” Policy and therefore, she

had addressed a letter to LIC on 3rd October 2012. According to her, the LIC had informed her that unless there is a divorce, the police cannot be discontinued. The allegation is that the husband of the second Respondent forged her signature on the surrender form, no objection of the second Respondent and receipt form of surrender of policy and by submitting the said documents, the husband of the second Respondent had obtained closure of the policy. The amount payable under the policy was credited to the joint account of the husband of the second Respondent, her father-in-law and her husband's sister. The allegation against the Applicant who is a Development Officer is that though the first informant/second Respondent was not present before the Applicant Development Officer, he signed the surrender form by identifying the signature of the second Respondent.

3. The learned counsel appearing for the Applicant submitted that the second Respondent has no locus to file a complaint inasmuch as subsequently, the amount had been brought back by the husband and the surrender of policy has been revoked. He submitted that before registering the FIR, the amount was offered to the second Respondent. He submitted that on plain reading of the FIR, no offence is made out against the Applicant. He relied upon a decision of the Apex Court in the case of *Md. Ibrahim and Others v. State of Bihar and Another*¹ in support of his submissions.

1 In Criminal Appeal No.1695 of 2009 decided on 4th September 2009

4. We have perused the FIR and the documents placed on record. We have carefully considered the submissions. Going by the averments made by the first informant, the surrender form has been signed by the Applicant. The Applicant could not have signed the surrender form unless both the second Respondent and her husband were present before him. The Applicant has relied upon a letter dated 14th July 2014 addressed by the Chief Manager of the LIC, Branch 916, Fort, Mumbai to him in which a decision of the Competent Authority had been recorded that the surrender may be treated as null and void and the husband may be advised to deposit the surrender value.

5. Going by the averments made in the Petition by the present Petitioner, there does not seem to be any dispute regarding the Petitioner signing the surrender form in absence of the second respondent and without verification of the signature of the said respondent by the applicant. It cannot be said at this stage that because of the subsequent deposit of the amount received by the husband, there is no loss caused to the first informant. Section 34 of the Indian Penal Code is applied. Therefore, considering the material on record, it is not possible for us to accept at this stage when investigation is in progress that no case of commission of offence is made out as against the Applicant. It is ultimately a matter of investigation by the police.

6. Therefore, no case is made out for interference with the impugned FIR at this stage at the instance of the Petitioner. Accordingly, the Writ Petition is rejected. We, however, make it clear that we have not made any final adjudication on the issues raised by the Petitioner and it is ultimately for the Investigating Officer to investigate the case and come to the conclusion regarding complicity of the Petitioner.

(A.A. SAYED, J)

(A.S. OKA, J)