

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1259 OF 2015

Mukesh Sukhdev Sharma

..... Applicant

V/s

State of Maharashtra & Ors.

..... Respondents

Mr. Murtuza Nazmi a/w Mr. Nishant V. Gupta for the Applicant.

Mr. K.V. Saste, APP for the Respondent Nos.1 and 2/State.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 18 OCTOBER 2016

ORDER:

1 The submissions of the learned Counsel appearing for the Applicant were heard on the earlier date. The prayer in this Application under section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing the First Information Report for the offences punishable under sections 419, 420, 465, 467, 468, 471, 406, 120B of the Indian Penal Code read with clauses (c), (d) and (e) of section 66 of the Information Technology Act, 2000.

2 . The allegation in the First Information Report is of fabrication of rubber stamps of State Bank of India and the company by the name

Oxygen Services (India) Pvt. Ltd. The allegation is of fabrication of letterheads of State Bank of India. The allegation is of commission of offences punishable under section 66 of the Information Technology Act, 2000 by pirating software of the State Bank of India. According to the case of the Applicant, by adopting the coercive methods, a declaration on oath was obtained from the Applicant on 23 January 2014. According to his case, the Applicant complained to the police on the basis of which CR No.495 of 2014 was registered by Andheri Police Station. It is pointed out that the third Respondent filed two complaints under section 138 of the Negotiable Instruments Act, 1882. On 21 October 2014, the present First Information Report which is the subject matter of challenge was registered.

3 The contentions of the learned Counsel appearing for the Applicant is that the First Information Report registered against third Respondent at the instance of the Applicant wherein allegation is that a declaration was obtained from the Applicant by using a coercive methods. In the said declaration, there are certain admissions on the part of the Applicant. It is pointed out that a report claiming 'B' summary was filed in the First Information Report registered at the instance of the Applicant to which the protest Petition has been filed by the Applicant. It is pointed out that fact that the promissory note of Rs.4 crores was obtained by the third

Respondent-first informant is not mentioned the Complaint filed before the Police. It was pointed out that there is no civil proceedings filed by the third Respondent against the Applicant for recovery of the amount, in as much as according to the case of the third Respondent, the amount recoverable from the Applicant is of Rs.1,59,19,648/-.

4 We have considered the submissions. As stated earlier, the allegations in the First Information Report are as regards the fabrication of rubber stamps of State Bank of India and fabrication of letterheads of the State Bank of India. Moreover, the offences are alleged under the Information Technology Act, 2000 as regards pirating the software used by the State Bank of India. In the declaration dated 23 January 2014 which is affirmed on oath by the Applicant before a Notary Public, there is virtually on admission of guilt. The said Affidavit has been affirmed before a Notary Public and on the Affidavit serial number of entry in the Notarial Register is also mentioned. There is an endorsement of the Applicant that he knows the English very well and after understanding the contents, he has signed the Affidavit. The fact that the Applicant has executed an Affidavit is not disputed. His case is that by using coercive methods, the Affidavit was get executed from him.

5 According to us, the allegations made in the First Information Report against the Applicant, prima facie make out a case of commission

of very serious cognizable offences which call for investigation. At this stage, no interference is called for in Application under section 482 of CrPC. Accordingly, the Application is rejected. We, however, make it clear that observations made in the order are only prima facie observations which are made only for the purposes of considering whether the power of quashing can be exercised at this stage.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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