

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4203 OF 2016

Amit Dhanishankar Upadhyay

.. Petitioner

-Versus-

Sr. Inspector, MIDC Police Station
and Ors.

..Respondents

Mr. Ahmad Abdi with Satyaprakash Sharma for petitioner
Mr. V.M.Advani with R.R.Shah for respondent Nos. 3 and 4
Dr. F.R.Shaikh, APP for State.

CORAM : V.M.KANADE &
MS.NUTAN D. SARDESSAI, JJ.

DATE : 8th December 2016.

P.C.

1] Heard the learned Counsel for the petitioner and learned Counsel for the respondent Nos. 3 and 4. Two separate complaints were filed by the respondent Nos. 3 and 4 against the petitioner, which were registered with M.I.D.C. police Station and Sakinaka Police Station for offence punishable under section 465, 467, 468, 471 and 420 of IPC. The parties have now filed consent terms duly signed by respondent Nos. 3 and 4, petitioner and their respective Advocates. The parties have stated in the consent terms that they have no objection if the complaints are quashed as they have amicably settled the dispute with the petitioner.

The consent terms are taken on record and marked "X" for identification.

2] Since the complainants do not wish to pursue the complaints and since the respondent No.3 has received Rs.90 lakhs towards full and final settlement of her claim, we are of the opinion that firstly the observations made by the Apex Court in case of Madan Mohan Abbot Vs. State of Punjab reported in A.I.R. 2008 S.C. 1969, will squarely apply to the facts of the present case.

3] We have interviewed the respondent Nos. 3 and 4. They have stated that they do not wish to pursue the said complaints and the respondent No.3 is satisfied with the amount which she has received from the petitioner towards full and final settlement of the claim. The respondent No.4 has stated that she has never made any claim in respect of the flat in question. She has stated that however, her pan card and other documents were misused by the accused – petitioner. However, she now does not wish to continue with the complaint. The Apex Court in the case of Jagdish Chanana Vs. State of Haryana (A.I.R. 2008 S.C. 1969) and Narinder Singh Vs. State of Punjab, reported in (2014) 6 S.C.C. 466, has observed that if parties wish to settle the dispute and the dispute is of personal in nature, then, the Court may exercise its inherent jurisdiction under section 482 of Cr.P.C. and quash

the complaint.

4] The ratio of aforesaid two judgements, therefore, will squarely apply to the facts of the present case.

5] We must note here that in number of cases which have come before us for quashing by consent, we have noted that complainants very often give their consent for settlement; and one reason for giving their consent is prolonged pendency and dragging on of criminal cases in courts, which results in the complainants being required to attend the courts some time almost twice a month. So, the complainant in these cases where he or she has lost his or her money or has been cheated and is a victim, has to wait in the queue to recover the money from the accused on account of delay in disposal of cases.

6] We believe that the only solution is to dispose of the cases expeditiously so that the complainant is not compelled to give his or her consent on account of gross delays and by way of frustration or helplessness. We do believe that one way to avoid this problem faced by the complainants and witnesses is to ensure that wherever possible a fixed time may be given to the complainant and witness so that they do not have to wait for whole day for their matter to be heard by the

Magistrate or any Court. Proper arrangements need to be made by the Case Management Committee at the trial court level to introduce such a system which would ensure that witnesses of the litigants do not waste their time and cases are disposed of expeditiously.

7] We also believe that time has now come where the Bar Council of Maharashtra & Goa so also Bar Council of India and respective Bar Associations take a positive decision and specific time limit is fixed in completing the arguments of either side. In other countries, such as USA one hour each is given to each party, no matter how big or small the claim may be. The courts are faced with the problem of arrears and there are several reasons for mounting of arrears. However, to a large extent, if the lawyers and the courts which are two sides of the same coin, in the dispensation of civil and criminal administration of justice, sit together and work out a schedule in disposal of cases, this problem would be resolved. In each dispute, inevitably one party is interested in delaying the disposal of the case and very often the interested party uses every trick available in the book to delay the proceedings. We hope that Bar Council of Maharashtra & Goa and Bar Council of India may consider the suggestions given by this Court.

8] The petition is accordingly allowed in terms of prayer clause (a) and

in terms of consent terms and disposed of. A copy of this order be served upon Bar Council of Maharashtra and Bar Council of India

(MS. NUTAN D. SARDESSAI, J)

(V.M.KANADE, J)