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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 4765 OF 2015

M/s. Ajanta Travels Pvt.Ltd. & Ors.	... Petitioners
Versus	
The State of Maharashtra and Anr.	... Respondents

Mr. Anoop Pandey a/w Ms.Swati Pandit and Mr. Mangesh Bhale
i/by M/s. Mulla & Mulla & C.B.C. for the petitioners.

Mrs. M.M. Deshmukh, APP for the State.

**CORAM : NARESH H. PATIL AND
A. M. BADAR, JJ.
DATED : MARCH 11, 2016.**

P.C.

1. By this petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, petitioners/accused are praying for quashing of FIR bearing MECR No. 2 of 2015 registered against them on 12/1/2015 for the offences punishable under sections 420, 464, 467 and 468 read with 34 of Indian Penal Code with Santacruz Police Station, Mumbai on the basis of directions of learned Metropolitan Magistrate, under section 156(3) of the Code of Criminal Procedure on the complaint lodged by respondent no. 2 Mrs. Kusum Laxman.

2. According to petitioners/accused, petitioner no.1 is registered company whereas petitioner nos. 2 and 3 are husband and wife. Petitioner nos. 4 and 5 are children of petitioner nos. 2 and 3. Respondent no. 2 on whose instance crime in question is registered is wife of late brother of petitioner no. 2.

3. It is case of petitioners that respondent no.2 had filed a complaint alleging that petitioners have forged her signature on register during meeting of Board of Directors of petitioner no.1 company and as FIR lodged by her was not registered, she sought an order under section 156(3) of Code of Criminal Procedure by the Court of learned Metropolitan Magistrate. Upon registering offence, petitioner nos. 2 to 5 applied for anticipatory bail and during the course of those proceedings, parties were referred to mediation. According to petitioners, they, as well as respondent no. 2 have decided to settle the matter before learned Judge Mediator and memorandum of understanding came to be entered between the parties on 25/3/2015. Our attention was drawn by the learned counsel appearing for the parties at report of the Judge Mediator at

page 39 to the petition as well as letter of Co-Co-Ordinator of Mediation Center, City Civil & Sessions Court, Mumbai at page 38 to the petition forwarding the report of Judge Mediator indicating that the parties have amicably settled the matter by drawing consent terms. Consent terms entered into between the parties are also placed on record as Exh. C at page 28 to the petition.

4. We have also heard learned counsel appearing for respondent no. 2/original complainant. He has placed on record affidavit of daughter of respondent no. 2 namely Priya Prabhudas Laxman and submitted that respondent no.2 has executed general power of attorney in favour of her daughter Priya Laxman. A copy of the said power of attorney is also placed on record. Learned counsel appearing for respondent no.2 has drawn our attention to clause 4 of the said general power of attorney wherein respondent no.2 has empowered her daughter Priya Laxman to compromise legal proceedings and to do all the other acts, deeds, matters and things relating to the said petition. According to learned counsel appearing for respondent no. 2, as the parties have settled the matter amicably out of Court, the prosecution needs to be quashed.

5. We have also heard learned APP for respondent no. 1. It is seen that the offence alleged against petitioners are not compoundable. The dispute between the parties is predominantly of civil nature arising out of commercial transactions. Petitioner nos. 2 to 5 as well as respondent no.2 are near relatives. By seeking intervention of Judge Mediator, they have settled their dispute and appropriate report thereof was also forwarded to the Co-Co-Ordinator of the District Legal Services Authority. In the wake of this factual position, we are of the considered opinion that it is appropriate to invoke inherent powers of this Court under section 482 of the Code of Criminal Procedure in order to secure ends of justice and to prevent abuse of process of the Court. Continuation of prosecution in such cases would result in waste of time of the trial Court as the matter is already settled by the parties. In the matter of **Narinder Singh V/s. State of Punjab**¹, the Hon'ble Supreme Court has given guidelines for invoking powers under section 482 of the Code of Criminal Procedure. As per guidelines so given, when dispute is predominantly of civil character arising out of commercial transactions and

¹ (2014) 6 SCC 466

parties are near relatives, then by invoking inherent powers under section 482 of the Code of Criminal Procedure, FIR and resultant proceedings can be quashed. Present case as such is appropriate case for quashing the FIR because of settlement of family dispute between the parties.

6. It is seen that the settlement between the parties is arrived at after registration of crime and on conducting of the investigation by Santacruz Police Station. Thereafter, parties have decided to opt for seeking quashment of FIR. In the wake of this, learned counsel for the petitioners fairly made a statement before the Court that petitioners will deposit an amount of Rs.25,000/- by way of donation to Tata Memorial Cancer Hospital, Parel and will produce receipt thereof. Statement so made is accepted.

7. Accordingly, the petition is allowed and FIR bearing MECR No.2 of 2015 registered against petitioners with Santacruz Police Station, Mumbai on 12/01/2015 for the offences punishable under section 420 464, 467, 468 read with 34 of Indian Penal Code and resultant proceedings are quashed and set aside subject to payment of costs of Rs.25,000/-

to be paid by petitioners to Tata Memorial Cancer Hospital, Parel, Mumbai for its use for philanthropic purposes, within four weeks from the date of this order. Petitioners shall pay the said amount and produce the receipt thereof on the file of this Court within a period of four weeks from today.

Subject to the above direction, this Writ Petition stands disposed of.

(A.M. BADAR,J.)

(NARESH H. PATIL, J.)