

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 4916 OF 2015

Vinod Deendayal Talreja ... Petitioner.

V/s.

The State of Maharashtra and Others. ... Respondents.

Ms. Shabnam Latiwala, Advocate for the Petitioner.

Mrs. M.H. Mhatre, APP for the State.

Mr. Zeus Zend, Advocate for Respondent No.3.

**CORAM : V. M. KANADE AND
Ms. NUTAN D. SARDESSAI, JJ.**

DATE : 16th NOVEMBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of the Petitioner and the learned counsel appearing on behalf of the Respondent No.3.

2 This petition is filed by the Petitioner for quashing the complaint filed by Respondent No.3 by consent of both the parties. Brief facts which are relevant for the purpose of deciding this petition are that the Petitioner is owner of the premises situated at Pydhonie, Mumbai, which were given in possession of the Respondent No.3 for storing his goods. On

account of certain civil dispute between the parties, the Petitioner did not permit Respondent No. 3 to use the said premises. On account of that, the police authorities initiated the proceedings under section 145 of the Criminal Procedure Code and the premises were sealed by an order passed by the Additional Chief Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai.

3 Respondent No. 3 filed a complaint against the petitioner with the Pydhonie Police Station under sections 341, 427 and 452 of Indian Penal Code vide CR No. 43 of 2009. It appears that now the parties have amicably resolved their dispute and therefore, Respondent No.3, who is present in the court, has stated that he has no objection for quashing the complaint filed by him against the petitioner. They had filed a complaint application for compounding the offence before the Metropolitan Magistrate. However, their application was rejected on the ground that an offence under section 452 of the IPC being non-compoundable, the Magistrate did not have jurisdiction to pass an order under section 320 of the Cr.P.C.

4 The Petitioner, therefore, has approached this court for quashing the complaint under section 482 of the Cr.P.C. It is now well settled by virtue of the judgment of the Apex Court in the case of **Gian Singh vs. State of Punjab & Anr.**, reported in (2012) 10 Supreme Court Cases 303 that if the

dispute between the parties is essentially of a civil nature and both the parties are willing to settle the dispute and quash the complaint, the High Court will exercise its jurisdiction under section 482 of the Cr. P.C. for quashing the complaint, if it comes to the conclusion that the dispute, essentially and predominantly, is of a civil nature.

5 Both the parties i.e. the petitioner as well as Respondent No.3 are present before this court. Respondent No. 3 has informed us that he has no objection if the complaint is quashed. Taking into consideration the ratio of the judgment of the Apex Court in the case of Gian Singh, cited supra, and more particularly the observations made therein in paras 60 and 61, we have no hesitation in quashing the complaint and accordingly the complaint is hereby quashed.

6 Since the complaint has been quashed, we are of the view that the order of sealing the premises passed by the Metropolitan Magistrate under section 145 of the Cr.P.C. will have to go since we are of the view that it is not necessary for the parties to again relegate them to the learned Magistrate for the purpose of quashing the said orders. Moreover the goods that are belonging to the Respondent No.3 are lying in the premises since 2003 and again further time will elapse before the order of sealing is set aside by the Executive Magistrate.

7 Under these circumstances we allow the petition in terms of prayer clause 10 (a) and (b). The Petition is accordingly disposed of.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J.)

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