

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5022 OF 2015

Mr.Yusuf Iqbal Shaikh, Ms Shaista Pathan, Mr.Rahul
Kapur i/b Yusufs and Associates for the Petitioner
Ms S.V.Sonawane, APP for the respondent No.1
Mr.Pawan Mali for respondent No.2

2 The prayer in this petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.) is for quashing the FIR registered at the instance of the second respondent with the Mahim Police Station which was transferred to EOW. The prayer for quashing is sought on the ground of settlement. The second respondent (first informant) has filed an affidavit. To the affidavit, he has annexed a copy of Memorandum of Understanding dated 20th June 2016 to which the petitioners and the

second respondent are parties. In the affidavit, he has stated that in view of the execution of the Memorandum of Understanding and the assurances of the petitioners incorporated therein, he has no objection for quashing the proceedings of the FIR.

3 In the impugned FIR, offence alleged are punishable under sections 406, 420 and section 120-B of the Indian Penal Code. There was an agreement executed between the petitioners and the second respondent in respect of the business of the development and commercial exploitation of technologies developed by the second respondent. From the perusal of the statement of the second respondent on the basis of which FIR is registered, we find that the dispute is essentially a commercial dispute arising out of a commercial transaction. Now, there is a complete settlement of the commercial dispute as evidenced by the Memorandum of Understanding produced by the first informant (second respondent). Even the petitioners have filed a separate affidavit dated 27th September 2016 in which they have stated that they have paid two instalments of the amounts payable as per the Memorandum of Understanding.

4 In view of the commercial settlement between the parties, in the light of the law laid down by the Apex Court in the case of Gian Singh versus State of Punjab and another¹, this is a fit case to exercise power under section 482 of the Cr.P.C. As

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the second respondent had set the criminal law in motion, in a commercial dispute, the EOW was required to take steps for investigation. On his own, the second respondent has deposited a sum of Rs.2,00,000/- by way of donation with the police welfare fund. A receipt issued to that effect has been produced for perusal of the Court.

5 Hence, the petition must succeed and we pass the following order:

(I) Rule is made absolute in terms of prayer clause (a) which reads thus:

“(a) That this Hon'ble Court may pass appropriate order/writ/directions and quash and set aside the FIR No.363/2015 of Mahim Police Station registered as E.O.W.C.R. No.59/2015 by the E.O.W. Mumbai.”

(II) All concerned to act upon an authenticated copy of this order.

(A.A.SAYED,J.)

(A.S.OKA,J.)