

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.300 OF 2017

Sanjay s/o.Divanji Gerange,
Age: 45 Years, Occ: Agri, Business
R/o. Isalak Tq. & Dist. Ahmednagar

APPLICANT

[Original Complainant]

VERSUS

- 1] The State of Maharashtra
Through its Police Inspector,
MIDC Police Station, Ahmednagar,
Tq. & Dist: Ahmednagar
- 2] Anand G. Mehendra
Age: 50 Years, Occu: Business,
R/o. Padurang Budhakar Marg,
Warali, Mumbai (Mah.) 400018
- 3] Kamalnayan s/o. Pruthvichand Sablok
Age: 73 years, Occu: Business.
- 4] Rohish s/o. Kamalnayan Sablok
Age: 32 years, Occu: Business,

Both R/o.Nagapur, Nagar-Manmad Road,
MIDC, Ahmednagar,
Tq. & Dist:Ahmednagar.
- 5] Mahesh s/o.Subhash Waghe,
Age: 35 years, Occu: Service,
R/o.Kakariya Motors, Near Big Bazar,
Ahmednagar, Tq. & Dist.Ahmednagar.

RESPONDENTS

[Original Accused]

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Mr.P.S. Pawar, Advocate for the applicant
Mr.Amit A. Yadkikar, Advocate for respondent
no.2.

Mr.Kakasaheb J.Tandale, Advocate for
respondent nos.3 to 5.

Mr.S.Y.Mahajan, Addl. P.P. for respondent No.
1 / State.

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WITH
CRIMINAL APPLICATION NO.305 OF 2017

Sonal s/o. Subhash Nikam,
Age: 35 Years, Occ: Business
R/o. Vadgaon-Gupta, Tq. &
Dist: Ahmednagar.

APPLICANT

VERSUS

[Original Complainant]

- 1] The State of Maharashtra,
Through its Police Inspector,
MIDC Police Station, Ahmednagar,
Tq. & Dist: Ahmednagar
- 2] Anand G. Mehendra
Age: 50 Years, Occu: Business,
R/o. Padurang Budhakar Marg,
Warali, Mumbai (Mah.) 400018
- 3] Kamalnayan s/o. Pruthvichand Sablok
Age: 73 years, Occu: Business.
R/o.Nagapur, Nagar-Manmad Road,
MIDC, Ahmednagar,
Tq. & Dist:Ahmednagar.
- 4] Babasaheb s/o.Bahiru Darkunde
Age: 45 years, Occu: Service,
R/o. Nagar Manman Road,

MIDC Ahmednagar,
Tq. & Dist: Ahmednagar.

RESPONDENTS
[Original Accused]

...

Mr.P.S. Pawar, Advocate for the applicant
Mr.Amit A. Yadkikar, Advocate for respondent
no.2.

Mr.Kakasaheb J.Tandale, Advocate for
respondent nos.3 & 4.

Mr.D.R.Kale, A.P.P. for respondent No.1/
State.

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**CORAM: S.S.SHINDE &
K.K.SONAWANE,JJ.**

Date: 09.02.2017.

JUDGMENT: (Per S.S.Shinde, J.):

1] The Criminal Application No.300/2017
is filed with the following prayer:

B] This Criminal Application may
kindly be allowed and the Crime
bearing No. I-292/2016 dated
30.11.2016 registered with the
police station at M.I.D.C.
Ahmednagar Tq. & Dist. Ahmednagar
offence punishable U/sec.420, 464,
467, 468, 471, 472, 409, R/w 34 of
I.P.C. may kindly be quashed in view
of Compromise taken place between
the applicant and Respondents.

2] Another Criminal Application No.305/2017 is filed with the following prayer:

B] This Criminal Application may kindly be allowed and the Crime bearing No. I-284/2016 dated 20.11.2016 registered with the police station at M.I.D.C. Ahmednagar Tq. & Dist. Ahmednagar offence punishable U/sec.420, 464, 467, 468, 471, 472, R/w 34 of I.P.C. may kindly be quashed in view of Compromise taken place between the applicant and Respondents.

3] The compromise pursis duly signed and verified by the applicants who are original informants and private respondents are placed on record. On the basis of the terms mentioned in the said compromise pursis, learned counsel appearing for the applicants i.e. original informants, submits that the parties have decided to settle the dispute without paying or accepting any

compensation. Therefore, the First Information Reports may be quashed and set aside.

4] The learned counsel appearing for the applicants in support of his contention that, when the parties have settled the dispute through compromise, and the informants do not wish to proceed with the First Information Reports, the First Information Reports deserve to be quashed, pressed into service exposition of law by the Supreme Court in the case of **Jagdish Chanana and others Vs. State of Haryana and another**¹, and also in the case of **Gian Singh V/s. State of Punjab and another**². He also placed reliance on the judgment of the learned Single Judge of the Bombay High Court Bench at Aurangabad in the case of **Sunil Kashinath Shinde & Ors. Vs. State of Maharashtra & Anr.**³

5] During the course of hearing, the learned APP appearing for the respondent –

1 [2008] 15 SCC 704

2. 2012 (10) SCC 303

3 2011 All.M.R. (Cri.) 2833

State informed this Court that the commission of alleged offences is not restricted against the informants, but there are number of other persons, who have been cheated by the applicants by selling the old vehicles posing that those vehicles are new. He further submits that number of documents, which are forged, fake and manufactured are delivery challans, tax invoices, insurance papers and also giving forged duplicate R.C., numbers to the vehicle etc. He submits that there appears to be wide spread conspiracy for pecuniary gain by the applicants cheating public at large by preparing forged documents. Therefore, it is necessary to take investigation to the logical end and prosecute the wrong doer in the public interest. He also invites our attention to the allegations in the First Information Reports and the investigation papers and submits that, in the peculiar facts and

circumstances of the case, this Court may not quash the First Information Reports on the basis of alleged compromise between the applicants and private respondents.

He further submits that quashing of First Information Reports on the basis of alleged compromise would send wrong signal to the society and might encourage alleged activities of cheating, fraud, misrepresentation and preparation of forged documents causing irreparable injury to the interest of members of the society.

6] We have given careful consideration to the submissions of the learned counsel appearing for the applicants and the learned counsel appearing for the respective respondents. With their able assistance, perused the allegations in the First Information Reports and also other documents placed on record, investigation papers and

verified terms of settlement duly signed by the applicants and private respondents. Though it is contended by the learned counsel appearing for the applicants that the alleged acts are individual in nature, however, keeping in view the allegation in the First Information Reports and also the fact that number of persons in the society have been cheated by the applicants by giving impression that vehicles available in the Show Room are manufactured by the Company and brought directly in the show room for sale, though the said vehicles are old, aforesaid contention of the applicant deserves no consideration. It appears from the perusal of the allegations in the FIR that, not only there is forgery of documents, fraud, misrepresentation, cheating but look of the vehicle is also changed thereby giving impression that vehicles are new, though as a matter of fact vehicles are old one. From

reading contents of the FIR, there appears to be wide spread conspiracy.

7] The Supreme Court in the case of ***Gian Singh Vs. State of Punjab and another*** [cited supra] has taken a view that in respect of serious offences like mental depravity, murder, rape, dacoity, etc. and the offences punishable for life imprisonment or death, the prayer for quashing of the First Information Report may not be considered favourably on the basis of amicable settlement / compromise.

In the present case, it appears from reading the allegations in the First Information Reports that the number of vehicles sold are already used/old. One of the alleged offences i.e. under Section 467 of the IPC, is punishable with imprisonment for life, or with imprisonment of either description for a term which may extend to

ten years. Upon reading the allegations in its entirety from the First Information Reports, the ingredients of the alleged offences have been disclosed. Therefore, in the peculiar facts and circumstances of the case, where an ingredient of the alleged offences have been attracted / disclosed and number of persons of the society are cheated, the contention of the applicants that the alleged offences are individual in nature, cannot be accepted. The Supreme Court in the case of **Nimmagadda Prasad Vs. Central Bureau of Investigation**⁴ in para 17 of that judgment held thus :-

"17.....

5. ... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed

4 2013 All SCR 2184

with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white-collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest."

8] We do not wish to make elaborate comments on merits of the allegations in the First Information Reports, since investigation is in progress. In the light of discussion in the foregoing paragraphs, we are not inclined to quash the First Information Reports on the basis of compromise between the parties or on merits. Hence, both the Criminal Applications for

quashing of the First Information Reports stand rejected.

9] The observations made herein above are *prima facie* in nature and restricted to the adjudication of the present applicants only. We make it clear that the rejection of the Criminal Applications may not be construed as an impediment to the accused to avail an appropriate remedy for seeking discharge, in the event of filing of charge-sheet by the Investigating Officer.

[K . K . SONAWANE]
JUDGE

[S . S . SHINDE]
JUDGE

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