

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

CRIMINAL APPLICATION NO.324 OF 2017

Mr. Megh Vinaychandra Shah : Applicant.
Versus
The State of Maharashtra and anr. : Respondents.

**ALONG WITH
WRIT PETITION NO.820 OF 2017**

Ms. Naina Prakash Bhandary and anr. : Petitioners.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. Mohan Salian i/b MGS Legal for the Applicant in Criminal Application No.324 of 2017 and for the Respondent No.2 in Writ Petition No.820 of 2017

Ms Mrunmai Kulkarni for the Petitioner in Writ Petition No.820 of 2017 and for the Respondent No.2 in Criminal Application No.324 of 2017

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**
DATE : 20th September 2017

P.C.

1 The above Criminal Application has been filed for quashing and setting aside the MECR No.3 of 2016 dated 26/07/2016 registered at with the Juhu Police Station, Mumbai for the offences punishable under Sections 354, 406, 409 and 420 of the Indian Penal Code. The above Writ Petition has been filed for quashing and setting aside of the C.R. No.622 of 2015 dated 06/10/2015 registered with the Bandra Police Station, Mumbai for the offences punishable under Sections 341, 504, 506, 506(II) r/w 34 of the Indian Penal Code.

2 The said MECR and the First Information Report (FIR) is therefore arising on account of the disputes between the parties. The parties were before a learned Single Judge of this Court in Arbitration Petition No.968 of 2016 which was filed under Section 9 of the Arbitration and Conciliation Act, 1996. In the said Arbitration Petition, the parties have arrived at an amicable settlement which was reduced into writing by way of Consent Terms. The said Consent Terms are annexed to the above Application No.324 of 2017. The said Consent Terms contemplates payment to be made by Ms. Naina P Bhandary to the Applicant Megh Vinaychandra Shah. Clause (5) of the said Consent Terms is material and is reproduced herein under :-

“5 As far as the complaint/FIR filed by the Respondent against the Petitioner is concerned :-

(a) The Respondent agrees and undertakes to this Hon'ble Court that until the complaint/FIR filed by the Respondent against the Petitioner is quashed, the Respondent agrees and undertakes not to pursue or prosecute the same and to inform the concerned Police Station accordingly. The Respondent also agrees and undertakes not to file any further complaints/FIRs or other proceedings against the Petitioner or his family members in respect of the events that have transpired till date.

(b) The Respondent agrees and undertakes to cooperate with the Petitioner to have the said complaint/FIR quashed and/or set aside and, if required, to file appropriate criminal proceedings/petitions for quashing/setting aside of the same by consent.”

An order came to be passed in terms of the said Consent Terms by a learned Single Judge of this Court in the said Arbitration Petition No.968 of 2016 dated 16/08/2016.

3 The learned counsel for the parties are ad-idem that Ms. Naina Prakash Bhandary had paid the amount which is mentioned in the Consent Terms to the Applicant Megh Vinaychandra Shah.

4 The first informant in Criminal Application No.324 of 2017, Ms Naina Prakash Bhandary has filed an affidavit bearing today's date and sworn before the notary public Mr. Hemant Jangam, Notary Government of India bearing notarial register Sr.No.800 dated 20-9-2017. In the context of the relief sought in the above Criminal Application paragraphs 4, 5 and 6 are material and are reproduced hereinunder:

4. I say that Arbitration Petition No.968 of 2016 was filed between the parties and consent terms were filed therein. I being the original complainant and the Petitioner have arrived to an amicable settlement amongst us. I say that the Petitioner has complied with the conditions of the said consent terms and the other terms and conditions arrived at between the parties and therefore, on that pretext the matter has been settled and no further claims remain to be satisfied by the Petitioners and henceforth there is no claim of any nature whatsoever against the Petitioner.

5. In the light of the above settlement entered into and arrived at between both the parties and subject to the compliance of the same, I being the original complainant do not wish to proceed with the above case filed against the Petitioners as we have amicably settled the dispute.

6 Hence, without going into the merits of the matter and without admitting the allegations levelled, I seek to withdraw allegations against the Petitioner in the light of the above settlement arrived at between both the parties without any coercion, force, undue influence and out of my free consent.

5 The first informant Ms Naina Bhandary is personally present in Court. She is identified by the Learned Counsel Ms Mrunmai Kulkarni appearing for her. She is also identified by her Adhar Card No.490521018363. When put in the box and queried, she states that the parties have arrived at a settlement before a Learned Single Judge of this Court in the Arbitration Petition. She further states that she has read the affidavit and contents thereof are acceptable to her. She further states that she has signed the affidavit of her own free will and volition.

6 The first informant in Criminal Writ Petition No.820 of 2017 Mr. Meghkumar Vinaychandra Shah has also filed an affidavit bearing today's date. In the context of the relief sought in the above Criminal Writ Petition paragraphs 2, 3 and 4 are material and are reproduced hereinunder:

2. I say that Arbitration Petition No.968 of 2016 was filed between the parties and consent terms

were filed therein. I being the original complainant and the Petitioner have arrived to an amicable settlement amongst us. I say that the Petitioner has complied with the conditions of the said consent terms and the other terms and conditions arrived at between the parties and therefore, on that pretext the matter has been settled and no further claims remain to be satisfied by the Petitioners and henceforth there is no claim of any nature whatsoever against the Petitioner.

3. In the light of the above settlement entered into and arrived at between both the parties and subject to the compliance of the same, I being the original complainant do not wish to proceed with the above case filed against the Petitioners as we have amicably settled the dispute.

4 Hence, without going into the merits of the matter and without admitting the allegations levelled, I seek to withdraw allegations against the Petitioner in the light of the above settlement arrived at between both the parties without any coercion, force, undue influence and out of my free consent.

7 The first informant Mr. Megh Vinaychandra Shah is also personally present in Court. He is identified by the Learned Counsel Mr. Mohan Salian appearing for him. He is also identified by his Adhar Card No.230958318610. When put in the box and queried, he states that the parties have arrived at a settlement before a Learned Single Judge of this Court in the Arbitration Petition. He further states that he has read the affidavit and contents thereof are acceptable to him. He further states that he has signed the affidavit of his own free will and volition.

8 Hence in the light of the settlement arrived at between the parties before the Learned Single Judge of this Court in Arbitration Petition No.968 of 2016 as also having regard to the affidavits filed by the Complainant and the first informant in so far as the MECR and FIR are concerned, coupled with the statement made by them when put in the witness box, the same unequivocally disclose that the parties have settled their dispute and therefore do not desire to proceed with their respective FIRs. Having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Criminal Writ Petition No.820 of 2017 and Criminal Application No.324 of 2017. No useful purpose would be served in keeping the above Criminal Writ Petition and Criminal Application pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a) and the above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition and Criminal Application are accordingly disposed of.

9 The Applicant in Criminal Application No.324 of 2017 and the Petitioners collectively in Criminal Writ Petition No.820 of 2017 to pay costs of Rs.20,000/- to be deposited with the Police Welfare Fund in the office of the

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065

Commissioner of Police Mumbai. The receipts to be obtained and filed in the registry within 8 weeks from date.

10 The parties to act upon an ordinary copy of this order duly authenticated by Court Shirestedar / Court Associate.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]