

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

CRIMINAL APPLICATION NO.362 OF 2016

Nilesh Mukundrai Bhuta : **Applicant.**
Versus
The State of Maharashtra and ors. : **Respondents.**

Ms. Anjali Patil for the Applicant.
Mr. K V Saste, Addl. PP for the Respondent/State.
Ms. Pracheta Rathod for the Respondent No.2.
Mr. Ram Kutwal for the Respondent No.3.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE JJ.**
DATE : 21st AUGUST, 2016

PC.

1 The report submitted by the Additional Commissioner of Police Shri Manoj Lohiya in respect of the aspect of whether a Power of Attorney can approach the police for lodging of an FIR has been accepted by a Division Bench of this Court as recorded in the order dated 03/02/2017. Suffice it would be state that the Additional Commissioner of Police has stated in the said report that necessary instructions have been issued in that regard. Hence in so far as the said aspect is concerned, it is not necessary to dilate further on the same.

2 By the above Criminal Application, Applicant seeks quashing of the FIR being C.R.No.SPLAC 16 of 2016 registered with Borivali Police Station at the instance of the Respondent No.2 who is the first informant.

The said FIR was on account of the alleged violation of the Copy Rights Act by the Applicant and especially Sections 51, 63(b) and 64 thereof. The parties have amicably resolved their dispute which is evidenced by the affidavits filed by the First Informant i.e. the Respondent No.2 and the Respondent No.3. The affidavit of the Respondent No.2 is dated 07/07/2017 whereas the affidavit of the Respondent No.3 is dated 24/07/2017.

3 In the context of the present Criminal Application, paragraphs 2 and 3 of the affidavit of the Respondent No.2 – Prakash Sopan Ingale are relevant and are reproduced herein under :-

“2 I say that accordingly the Settlement Deed is made on 31st day of March 2016, now pursuant to the discussion the parties have now decided to amicably settlement of Dispute. In view of procurement of valid license for usage of Shreelipi Software of Modular Infotech Pvt. Ltd. by “Manali Chemicals (India) Pvt. Ltd.”

3 I say that I have no objection for quashing of the FIR against the Applicant as the Applicant has already purchase a valid License for usage Shreelipi Softward of Modular Infotech Pvt. Ltd.”

In so far as affidavit of the Respondent No.3 – Mahadeo Laxman Kondhare is concerned, paragraph 4 of the said affidavit is relevant is reproduced herein under :-

“4 I say that the Respondent No.3 is aware that the said Respondent No.2 has filed FIR against the Applicant. That thereafter an amicable settlement was arrived between the parties whereby the said Applicant had purchased for licensed softwares from us. I say that the Respondent No.3 has received the payments towards the said softwares and hence the Company don't wish to pursue the pending FIR and have no objection if this Application is allowed by this Hon'ble Court.”

4 The Settlement Deed to the above Criminal Application is at page 21, clauses 3 and 4 thereof are material and are reproduced herein under :-

“3 In view of the above, Mr.Prakash Sopan Ingale agrees, acknowledges and confirms that he has no objection to the quashing of the FIR No/SPLAC 16/16 dt. 30/3/2016 registered under section 51, 63(b) and 64 of the Copy Rights Act, 1957 with the Borivali Police Station and the proceeding arising therefrom.

4 Mr. Prakash Sopan Ingale undertakes to make statement(s) before a Court of competent jurisdiction and also execute affidavits to be filed before the said court of the competent jurisdiction to the effect that the subject matter of the FIR has been amicably resolved/settled with Mr. Nilesh Mukundrai Bhuta and that he has no objection to the quashing of the FIR and the proceedings arising therefrom.”

5 Reading of the Settlement Deed and the two affidavits therefore discloses that the parties have amicably resolved their dispute.

Having regard to the judgments of the Apex Court reported in (2012) 10 SCC 303 in the matter of Gian Singh v/s. State of Punjab and another and 2014 AIR SCW 2065 in the matter of Narinder Singh v/s. State of Punjab, no useful purpose would be served by continuing the proceedings. There is now therefore no impediment for quashing the FIR. The above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]