

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 520 OF 2017

Sojab Nasir Khatib & Ors.Applicants

V/s.

State of Maharashtra & anr.Respondents

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Mr. Kaushal Mor, Advocate for the applicants.

Mrs. S.D.Shinde, APP for State, respondent no.1.

Mr. Rajkumar Shukla, Advocate for respondent no.2.

CORAM :-

R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :-

22ND AUGUST, 2017.

P.C. :-

1. By the above application, the applicants seek quashing of C.R. No. I-215/2016 registered with Wada Police Station, District- Palghar for the offences punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code. The cause for filing of the FIR

was on account of the allegation of the First Informant that the gold which was pledged by the applicants was found to be spurious. It is required to be noted that the applicants who claim to be small farmers had raised loans from the First Informant by pledging their gold ornaments. It is further required to be noted that the Bank had its Valuer, who has committed suicide on 15th May, 2016.

2. The parties i.e. the applicants and respondent no.2, Bank have settled the matter amicably, as a result of which the First Informant i.e. the Branch Manager, Kudus Branch of the respondent no.2, Mr. Anant Mahadev Phanse has filed an Affidavit bearing today's date. The said Affidavit is sworn before the Notary, S.K. Tambawala, and bears the Notarial Register No. 26073 dated 22nd August, 2017. In the context of the relief sought in the above application, paras-2, 3 and 4 of the said Affidavit are material and are reproduced herein under :-

“2. I state that the amount of loan taken by the Applicants has been completely repaid by them and the No Dues Certificate issued by the Bank is already annexed to the Application of the Applicants.

3. I say that, Applicants were regular in payment of their installments and the accounts were never irregular. I state that all the money has already been repaid. I further state that parties have already settled the same, no fruitful purpose would be served if the prosecution is continued against the present Applicants.

4. I therefore say that I have No Objection if the C.R. No.I-215 of 2016 of the Wada Police Station, Palghar against the present Applicants is quashed and set aside.”

3. Hence, the said Affidavit in a way epitomizes the settlement arrived at between the parties. The Branch Manager, Anant Mahadev Phanse is personally present in the Court. He is identified by the Learned

Counsel Mr. Rajkumar Shukla. He is also identified by his Bank Identity Card which bears Staff No.38134. The Card number is 81665 and is dated 25th April, 2016. When put in the box and queried, Mr. Phanse states that, he has been authorised by respondent no.2, Bank to file the instant Affidavit. He states that the signature on the Affidavit is his and that the contents of the Affidavit are acceptable to him. He further states that, the settlement recorded in the said Affidavit has been accepted by respondent no.2, Bank.

4. In the light of the said Affidavit dated 22nd August, 2017 of the Branch Manager, Anant Mahadev Phanse and having regard to the judgments of the Apex Court in the case of **Gian Singh v/s. State of Punjab, reported in (2012) 10 SCC 303** and **Narinder Singh V/s. State of Punjab, reported in (2014) 6 SCC 466**, no useful purpose would be served by keeping the proceedings pending. Hence, there is now no

impediment in quashing the proceedings. The above application is accordingly allowed and made absolute in terms of prayer clause (a).

5. The Learned Counsel appearing for respondent no.2, Bank Mr. Rajkumar Shukla undertakes to file his Vakalatnama during the course of the present week. Undertaking accepted.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)