

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 754 OF 2013**

Amit Hashmukh Doshi

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

WITH**CRIMINAL APPLICATION NO. 903 OF 2016**

Mohammad Bilal Shaikh Mamledar & Anr.

..Applicants

Vs.

The State of Maharashtra & Ors.

..Respondents

Mr. Ashwin V. Sakolkar i/b. R & M Partners for Applicant No. 754 of 2013.

Mr. Anoop Patil i/b. Mr. Amit A. Yadkikar for Applicants in Application No. 903 of 2016.

Mr. K. V. Saste – APP for State in both Applications.

Mr. S. D. Chavan for Respondent No. 2 in both Applications.

Mr. Aniket Ashok Tapase – Respondent No. 3 in person present in Court.

**CORAM : S. C. DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 3RD MAY, 2017

P.C. :

1] On the earlier occasion though the affidavits of the victim and his brother were placed on record, this Court was not satisfied with the explanation that the victim is pre-occupied elsewhere and therefore cannot attend the Court.

2] This Court insisted on the attendance of this victim Aniket Ashok Tapase for the simple reason that his brother, the complainant has alleged that the applicants before this Court have committed serious offences and punishable under the provisions of the IPC. Their acts and as set out in the FIR, copy of which has been annexed indicate that the said Aniket was unlawfully taken away to Goa, he was taken around and thereafter housed in an unknown place in Goa. It is only thereafter with some clues that the complainant who is the brother of the victim could locate him. Though the financial transactions are alleged to be the base for these illegal and wrongful acts and allegedly committed by the applicants, still, sections 363, 420 of IPC are invoked by the complainant.

3] Now it is stated that there were family relations and equally business relations. On account of some misunderstanding this FIR came to be lodged. The complainant as also the victim have filed affidavits. In Aniket Ashok Tapase's affidavit, which is at page 122 of the paper book in criminal application no. 754 of 2013, it is stated that the relations between the family of the complainant and the accused have developed, joint meetings took place in which co-accused were also present. There was an overall settlement arrived at and which

resulted in an agreement to withdraw all cases against each other.

4] The brother of the applicants before this Court had filed a complaint under section 138 of Negotiable Instruments Act, 1888 being S.C.C. 1275 of 2010 before the learned Judicial Magistrate, First Class at Belgaum. That complaint was returned for want of territorial jurisdiction. Now even that complaint will not be proceeded with.

5] From a perusal of both these affidavits, it is clear that the FIRs though alleging serious offences and punishable under sections 363, 342, 392, 364A, 420, 384, 323, 120B of IPC as also 34 of IPC, yet, this is a fall out of a dispute because of financial dealings as well. There are claims and counter claims and equally these complainants owe money to the accused. For all this possibly the assistance of police was taken and to lodge such complaints. In the light of these affidavits placed on record and both the deponents appearing before this Court, identifying themselves and stating that the statements attributed to them in these affidavits correctly record the facts and the agreements between them and the accused, that the contents of these affidavits are inserted as per their instructions,

they understanding the consequences and repercussions of such statements particularly in law, there being no force or pressure of any kind, we quash the subject FIRs. We quash them though the offences alleged are serious and affect the society at large but they are a fall out of the family relations and business dealings. Since the disputes are private in character and none other than the family members are involved in facts peculiar to this case, we grant the request by exercising our powers under section 482 of Cr.P.C. This order is confined to the facts and circumstances of this case and these applications only. It shall not be treated as a precedent in future cases of this nature. Both Criminal Applications are allowed accordingly. The charge sheets are also quashed and set aside.

(PRAKASH D. NAIK, J.)

(S. C. DHARMADHIKARI, J.)