

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.784 OF 2017

Nizamuddin Moinuddin ShaikhApplicant
V/s.
The State of Maharashtra & Anr.Respondents

Mr. R.J.Sawant, advocate for Applicant.
Mr. V.B.Konde-Deshmukh, Addl. PP for the Respondent-State.
Ms. Rebecca Dias i/by Mah. Legal Asso.,advocate for Respondent No.2.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 10TH AUGUST, 2017.

PC. :-

By the above criminal application, the applicant seeks quashing and setting aside of the criminal proceedings being C.C.No.696/PW/2014 pending before the learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai. The said criminal case is arising out of F.I.R. No.29 of 2013 registered with the EOW GB CB, CID Unit V for the offences punishable under Sections 409, 465, 468, 471 of the IPC. The gravamen of the allegation against the applicant was in respect of the alleged misrepresentation that he was the General Manager of one Angel Broking on account of which misrepresentation, the respondent no.2

was induced to invest in funds with the false assurance of return of 30% on the invested amount. Further allegation was that a bogus statement of account, etc. of the respondent no.2 in respect of said trading were sent to the respondent no.2. The parties have mutually resolved their dispute in respect of which they have executed 'Consent Terms' which are annexed at Exhibit 'B' Page 15 to the above application. In so far as the 'Consent Terms' are concerned, they have been notarised before the Notary Public Mr. S.K.Shetty and entered in the notarial register at Sr.No.3105 dated 17.7.2017. Respondent No.2, i.e., the first informant has also filed his affidavit dated 4.8.2017 which is sworn before the Notary Public Mrs. Alia N. Pathan on 4.8.2017 and bears Notaral Register No.26018. In the context of the present application, paragraphs 4 and 7 are material and reproduced hereinunder:

“4) I say that myself and the Applicant have recorded the terms of settlement arrived at between us in the Consent Terms marked as Exhibit “C” annexed to the Criminal Application u/sec 482 No.784 of 2017. I say that the said Consent Terms have been signed by me and the Applicant No.1, with an undertaking that the terms will be abided by both the parties to the Consent Terms.

7) I say that I hereby agree that the above Criminal Application u/sec 482 No.784 of 2016 be disposed off in

view of amicable settlement arrived at between myself and the Applicant and that this Hon'ble Court be pleased to quash the Criminal Proceedings in C.C.No.696/PW/2014 pending before the Ld. Addl. Chief Metropolitan Magistrate 19th Court, Esplanade, Mumbai arising out of FIR vide C.R.No.29 of 2013 registered with EOW GB CB CID Unit V for offence under Sections 409, 465, 468, 471 r/w 120(B) of the Indian Penal Code pending against Applicant.”

A reading of the said affidavit, therefore, discloses that the parties have amicably resolved their dispute.

2 In terms of the law laid down by the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served in keeping the proceedings pending. The above criminal application is, accordingly, allowed and made absolute in terms of prayer clause (a). The above criminal application is, accordingly, disposed of.

3 Since the machinery of this Court has been used to settle the disputes, the applicant to pay cost of Rs.10,000/- to the Maharashtra Legal Services Authority within six weeks from date.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)