

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 789 OF 2017

Dr. Gita Kasturi. ..Applicant.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. P. S. Prasad Rao i/b Mr. devika M. Purav for the Applicant.
Ms. S. D. Shinde, APP for the State.

Coram : RANJIT MORE &
SANDEEP K. SHINDE, JJ.

Date : **December 8, 2017.**

P. C. :

1. Heard Mr. Rao, learned Counsel for the Applicant and Ms. Shinde, learned APP for the State. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicant is seeking to quash the FIR bearing CR. No. 348 of 2015 registered with MRA Marg Police Station, Mumbai. The said FIR is registered at the instance of Respondent No.2 herein for the offence punishable under section 420 read with 34 of the Indian Penal Code, 1860.

2. We have gone through the FIR. FIR reveals that complainant's daughter was interested in pursuing MBA course. The Complainant came in contact with the Applicant, who is advocate by profession. The FIR alleges that Applicant represented that she knows some persons from the Symbiosis college and demanded an amount

of Rs. 10 lakh to secure seat for the Complainant's daughter to MBA course. The allegations further show that the Applicant took Rs.10 lakh but she did not secure seat for the Complainant's daughter in Symbiosis college for MBA course. Thus prima facie, offence under section 420 of IPC is made out.

3. Mr. Rao, the learned Counsel for the Applicant vehemently argued that there is no inducement. He also submitted that the Applicant never accepted an amount of Rs.5 lakh in cash and the allegation to that effect made in the FIR is false. He, however, admitted that an amount of Rs. 5 lakh was received by the Applicant through RTGS mode as professional charges. He submitted that in view of the above, FIR deserves to be quashed.

4. We do not see any substance in the application. Firstly, having perused the FIR, we find that the Applicant made representation to the Complainant and thereafter the Complainant paid an amount of Rs.10 lakh, i.e., Rs.5 lakh by RTGS and Rs.5 lakh in cash. So far as the contention that allegations in the FIR are false is concerned, it is to be noted that at this stage the allegations have to be accepted at the face value.

5. Be that as it may, the FIR does disclose that prior to filing of FIR, ie., in the year 2013, the Applicant's son has refunded an

amount of Rs.2 lakh to the Complainant. The explanation of the Applicant that the said amount was refunded as the legal work of the Complainant was not done. It is difficult to accept this submission as there is no business for the Applicant's son to refund that amount. Mr. Rao submitted that this amount was not refunded by the son of Applicant, but by the husband of Applicant. In any case, these are disputed questions of facts and we cannot go into these allegations in exercise of powers of this Court under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973.

6. Since the FIR discloses the commission of cognizable offence, we are not inclined to entertain this application. Taking totality of the facts and circumstances of the case into consideration, application is dismissed.

[SANDEEP K. SHINDE, J.]

[RANJIT MORE, J.]