

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3614 OF 2017**

Smt. Anisa Washim Kazi

..Petitioner

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Sachin B Chandan for the Petitioner

Mr. Saurabh Butala for the Respondent No.2

Mr. V. B. Konde Deshmukh APP for the Respondent State

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

DATE : 20th SEPTEMBER, 2017

P.C.

1 By the above Criminal Writ Petition quashing of the FIR No.195 of 2017 registered with the Pydhonie Police Station for the offences punishable under Section 420 of the Indian Penal Code, is sought. The FIR has arisen out of the dispute revolving around the alleged promise made by the Petitioner that she would provide a suitable job to the friends of the Respondent No.2 on paying Rs.90,000/-.

2 The parties have amicably settled the dispute as a consequence of which the Respondent No.2 Mr. Prashant Tripathi has filed his affidavit dated 20-8-2017 and affirmed before the notary public of Mr. Chakshupal Badge bearing notarial register Sr. No.02063(4)/2017 dated 28-8-2017. In the

context of the relief sought in the above Writ Petition paragraphs 3 and 4 of the said affidavit are material and are reproduced hereinunder:

3. I say that I and the Petitioner amicably settled all the disputes amongst ourselves and mutually agreed to withdraw allegation made in the FIR by me and therefore the consent terms is prepared by me on 28-8-2017 in pursuance of the said consent terms we agreed to withdraw the allegation leveled against the Petitioner herein. As per the consent terms, the Petitioner is to pay me Rs.70,000/- (Rs. Seventy thousand only) toward full and final settlement amount out of which Petitioner has paid me Rs.10,000/- (Rs. Ten thousand only) towards part payment of settlement and the Petitioner further agree to allow me to withdraw the amount of Rs.60,000/- (Rs. Sixty Thousand only) at my own cost from Honorable Metropolitan Magistrate which was seized by the Investigating officer during the course of investigation. That the Petitioner is agreed to give all the consent require for enabling the honorable Metropolitan Magistrate to allow my application for withdrawal of amount.

4 I say that both the parties will have to wait long for the trial to reach finality. The differences between the Petitioner and me are purely commercial in nature. There is no offence committed as such against the society. I say that I have settled all the disputes with Petitioner and I am filing this present affidavit as per my own will and I give my consent to the prayers made by the Applicant for quashing of the FIR bearing No.I-195 of 2017 registered with Paydhuni police station for the offence punishable under Section 420 of the Indian Penal Code, Mumbai without any force or coercion and hence I do not wish to pursue any legal proceedings against the Petitioner in the subject matter of the said proceedings.

3 The first informant i.e. the Respondent No.2 is personally present in Court. He is identified by the Learned Counsel Mr. Butala appearing for him. He is also identified by his Adhar Card No.552193375377. When put in the box and queried he states that he has understood the contents of the affidavit which have been explained to him by his Learned Counsel. He further states that he has sworn the said affidavit of his own free will and volition. In view of the settlement arrived at between the parties, the Petitioner has agreed to return an amount of Rs.70,000/- out of which an amount of Rs.10,000/- has already been refunded to him. Hence the affidavit coupled with the statement made by the Respondent No.2 when put in the box demonstrate that the parties have settled the matter. Having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the above Criminal Writ Petition pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

4 The application for withdrawal of the amount of Rs.60,000/- which lies in deposit in the Court of the concerned Learned Metropolitan

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR scw 2065

Magistrate would be considered by the Learned Metropolitan Magistrate in the light of the fact that the proceedings have now been quashed.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]