

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4083 OF 2014

Santosh Prabhakar Ankolikar and Others. .. Petitioners
Vs
The State of Maharashtra and Another. .. Respondents

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Shri Shirish Gupte, Senior Advocate i/b Shri Chintamani K. Bhangoji for
the Petitioners.

Shri K.V. Sastge, APP for the Respondent No.1.

Shri Ashish S. Chavan for the Respondent No.2.

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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 1ST FEBRUARY 2017

PC.

1. Rule. The learned APP waives service for the first Respondent. The Advocate for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under Sections 409, 506(2), 380 read with 34 of the Indian Penal Code.

3. The second Respondent is in the business of running Cable Television Network. The allegation in the FIR is based on the representation made by the Petitioners and in particular the first Petitioner on the basis of which an amount of Rs.1,50,00,000/- was paid by the second Respondent to the first Petitioner. Reliance is placed on various agreements regarding cable distribution executed by and between the second Respondent and the first Petitioner and his other business concerns. The allegation is that by using the local cable network of the second Respondent and by removing the set top boxes provided by the second Respondent, the cable network of the second Respondent was used by the Petitioners for supplying signal of another Company. The allegation is that certain data has been stolen by the first Petitioner.

4. There is an affidavit-in-reply filed by the second Respondent (first informant). He has claimed that there is a settlement between him and the Petitioners. The settlement is that the optical fiber cable network in the areas of Andheri (East), Andheri (West) and Jogeshwari (East) will be handed over by the Petitioners to the second Respondent. It is in light of this settlement that the second Respondent has given no objection for quashing the FIR. The learned APP on instructions stated that there are no other victims of the offence.

5. Perusal of the statement of the second Respondent on the basis of which the FIR was registered shows that the dispute is essentially a contractual dispute based on the agreements executed by the second Respondent in favour of the first Petitioner and his associate concerns. Essentially, the dispute is about the alleged breach of the agreements committed by the first Petitioner and others. Now, the affidavit of the second Respondent shows that by way of settlement, the Petitioners have agreed to hand over optical fiber cable network in certain areas to the second Respondent. The dispute reflected from the FIR has pre-dominantly a civil flavour. The offences which are alleged are essentially based on the commercial dispute and it cannot be said that the same are against the Society at large.

6. In view of the settlement between the parties, now continuation of the criminal proceedings will serve no purpose, and therefore, chances of conviction are very bleak. Hence, this is a fit case to exercise the power under Section 482 of the CrPC for quashing the FIR.

7. Accordingly, we pass the following order.

ORDER :

(a) Rule is made absolute in terms of prayer clause (a),

which read thus;

“(a) That this Hon'ble Court be pleased to quash and set aside FIR bearing No.261 of 2014 registered with Respondent No.1 MIDC Police Station, Andheri under Section 409, 506(2), 380 and 34 of Indian Penal Code filed by the Respondent No.2 against the present petitioners in the interest of natural justice.”

(b) All concerned to act upon an authenticated

copy of this order.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)