

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.4846 OF 2014

Amiyakumar Gaurishankar Jha,
R/o.Bhyander (East), Dist.Thane

Petitioner

versus

1. The State of Maharashtra
through Inspector Incharge,
Amboli Police Station, Mumbai.

2. Vachaspati A. Mishra,
R/o.Andheri (West), Mumbai.

Respondents

**AND
WRIT PETITION NO.2362 OF 2016**

Pitabash Prasad Dash,
R/o.Andheri (East), Chakala, Mumbai

Petitioner

versus

1. The State of Maharashtra
through Inspector Incharge,
Amboli Police Station, Mumbai.

2. Vachaspati A. Mishra,
R/o.Andheri (West), Mumbai.

Respondents

Mr.Mukesh K. Mishra, Advocate for Petitioners, in both petitions.
Smt.M.H.Mhatre and Dr.F.R.Shaikh, Assistant Public Prosecutors, for
State, in both petitions respectively.
Mr.Anand A. Pande i/by Mr.Ashok Pande, Advocate, for Respondent
no.2 in both petitions.

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

Date of Reserving the Judgment : 7th April 2017
Date of Pronouncing the Judgment : 27th April 2017

JUDGMENT - (Per - Prakash D. Naik, J.) :-

1. The Petitioners in both the petitions have preferred these petitions by invoking writ jurisdiction of this Court under Article 226 of the Constitution of India as well as by invoking inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'). Both the Petitioners were arrayed as accused in the first information report ('FIR') registered at the instance of Respondent no.2 with Amboli Police Station, Andheri, Mumbai vide CR No.188 of 2014. The said FIR was registered on 1st June 2014 for offences punishable under Sections 406, 420 read with Section 34 of Indian Penal Code.

2. The first informant has alleged in the complaint that he was acquainted with accused no.1 PPDash (Petitioner in Criminal Writ Petition No.2362 of 2016). Accused no.1 used to provide the work of financial arrangement to Respondent no.2. After some time the accused no.1 left his job and started working with Respondent no.2. It is the case of the complainant-Respondent no.2 that accused no.1, the complainant and the wife of complainant had jointly opened two companies viz. Golden Bricks Corporate Advisors Private Limited and Golden Bricks Infrastructure Private Limited. These two companies were carrying out work of financial consultant only. M/s.Shah Group Builders had approached the said companies for arrangement of financial assistance to the tune of Rs.285 crores. The complainant and accused no.1 had discussions with M/s.Shah Group Builders on several occasions for the purposes of providing financial assistance to them. The said Shah Group Builders had agreed to give commission

in lieu of arrangement of finance to them. At that point of time, accused no.1 represented the complainant that he is acquainted with one person namely A.K.Jha (accused no.2) (Petitioner in Criminal Writ Petition No.4846 of 2014), who is running a company named as Regulus Consultants and Advisor Pvt.Ltd. He further stated that the accused no.2 would make an arrangement to help them in providing the financial assistance to M/s.Shah Group Builders. The accused no.2 assured that he will certainly make an arrangement to provide finance to the complainant and the accused no.1 to accomplish the deal with M/s.Shah Group Builders. However, the accused no.2 demanded commission in advance for providing the said financial assistance. He guaranteed that he will provide the loan amount to the tune of Rs.115 crores. He, therefore, demanded commission in advance to the tune of Rs.1.50 crores. The accused no.1 had also represented to the complainant that the accused no.2 will definitely provide the said financial assistance and he guarantees that he would fulfill the promise. Believing the said representations of accused nos.1 and 2, the complainant parted a sum of Rs.1.30 crores to accused no.2. However, the finance was not provided and when the complainant tried to contact accused no.2, his phone was found to be switched off. Later on it was found that the accused no.2 was arrested in some other case. It was also learnt that accused nos.1 and 2 had shared the amount which was parted by the complainant. It is, therefore, the case of the complainant that accused nos.1 and 2 had connived with each other to cheat the complainant. Hence, an FIR was registered with Amboli Police Station for the offences as stated above.

3. Both the accused preferred applications for anticipatory bail before this Court viz. Anticipatory Bail Application Nos.1040 of 2015 and 1702 of 2015. During the course of hearing of the said applications, it was submitted before the Court that the accused are settling the dispute by making payment to the complainant. The complainant filed an affidavit during the course of hearing of the said anticipatory bail applications. In the affidavit, it was stated that as per the mutual agreement between the said Applicants and the complainant, the Applicants-accused have agreed to pay a sum of Rs.65 lakhs out of total due amount of Rs.1.30 crores. It was further stated that the complainant has received an amount of Rs.65 lakhs and he has no objection for grant of anticipatory bail to the accused persons. A copy of the said affidavit has been annexed to the Criminal Writ Petition No.2362 of 2016. In view of the settlement between both the parties, the applications for anticipatory bail preferred by both the accused, were allowed by order dated 18th February 2016.

4. Criminal Writ Petition No.4846 of 2014 was preferred by accused no.2 on merits. In view of the settlement, an affidavit was submitted by the complainant in the said petition. However, Criminal Writ Petition No.2362 of 2016, which was preferred by accused no.1, contained averments that the parties have amicably settled the dispute and the complainant has no objection for quashing the impugned FIR. A copy of the affidavit submitted by the complainant in Criminal Writ Petition No.4846 of 2014 is also annexed to Criminal Writ Petition No.2362 of 2016. In the said affidavit submitted by the complainant, it was stated that during

pendency of the anticipatory bail applications preferred by both the accused, mutual understanding is arrived at between them and out of Rs.1.30 crores, it was agreed that the accused will pay an amount of Rs.65 lakhs to the complainant by way of full and final settlement of the entire dues. In view of the said settlement it was stated that the accused have paid a sum of Rs.65 lakhs to the complainant during pendency of applications for anticipatory bail. The payment details were also annexed to the said affidavit. It was further submitted in the affidavit that in view of payment of Rs.65 lakhs, he has no objection for quashing the said FIR.

5. Learned counsel appearing for the Petitioners in both these petitions as well as learned advocate representing the complainant in both these petitions, have stated that there is amicable settlement between both parties and the complainant has no objection for quashing the FIR which is impugned in these petitions. It was submitted that as per mutual agreement between both the parties, the payment, as agreed upon, has been paid to the complainant and, therefore, there is redressal of grievance of the Respondent no.2.

6. We have considered the submissions made by learned Advocates representing the Petitioners-accused and Second Respondent-complainant. We have perused the contents of both the petitions as well as documents annexed to the petitions. We have also gone through the affidavit submitted by the complainant stating that he has received the payment and he has no objection for quashing the impugned FIR. We have also noted that this is a dispute which is of private in nature and public at large has no nexus

with it. In the case of **Gian Singh Vs. State of Punjab and another**¹, the Apex Court has observed that in the event of settlement between parties in respect to the disputes of private or personal in nature, the High Court in exercise of inherent powers under Section 482 of Cr.PC. may quash the criminal proceedings.

7. In view of the aforesaid circumstances and taking into consideration that there is genuine settlement between the parties, we are inclined to allow these writ petitions and quash the impugned FIR registered at the instance of Respondent no.2.

8. Hence, we pass following order :

ORDER

(a) Criminal Writ Petition No.4846 of 2014 and Criminal Writ Petition No.2362 of 2016 are allowed;

(b) The FIR registered with Amboli Police Station, Amboli, Mumbai vide CR No.188 of 2014 on 1st June 2014 for offences punishable under Sections 406, 420 read with Section 34 of Indian Penal Code, is quashed and set aside;

(c) No order as to costs.

(PRAKASH D. NAIK, J.)

(SC.DHARMADHIKARI, J.)

MST

¹ (2012)10-SCC-303