

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO.648 OF 2017

Prakash s/o. Damodharrao Zoting,
Aged about 47 years, Occ. Service,
r/o. 641, Loma Ulta Drive,
Flower Mound, Texas-75022
(USA).

..... APPLICANT

// VERSUS //

1.The State of Maharashtra,
through Police Station Officer,
Police Station, Dhantoli,
Nagpur.

2.Smt.Gayatri wd/o. Ganesh Zoting,
Aged about 33 years, Occ. Service,
r/o. Kotwal Nagar, Ashwin
Apartment, 2nd Floor, C/2,
Urvilla Co-op. So., Nagpur.

..... RESPONDENTS

Mr.N.A.Jachak, Advocate for the Applicant.
Mr.A.M.Joshi, A.P.P. for the Respondent No.1.
Mr.V.A.Dhabe, Advocate for the Respondent No.2.

CORAM : SMT. VASANTI A NAIK
AND
M.G.GIRATKAR, JJ.

DATED : 27th September, 2017.

ORAL JUDGMENT (Per M.G.Giratkar, J) :

1. The Criminal Application is admitted and heard finally with the consent of the learned Counsel for the applicant.

2. By this Criminal Application, the applicant has prayed to quash and set aside the Charge-sheet No.157/2010 and Criminal Case No.2896 of 2010 pending before the learned Judicial Magistrate, First Class (Court No.2), Nagpur. It is submitted that non-applicant no.2 lodged report against the applicant. After investigation, police have filed Criminal Case before the Judicial Magistrate, First Class, Nagpur. It is submitted that there were civil litigations between applicant and non-applicant no.2. Now, applicant

and non-applicant no.2 have settled all their disputes. They have compromised all the Civil as well as Criminal proceedings pending between them. It is submitted that non-applicant no.2 is nearest relative of applicant. Husband of non-applicant no.2 Ganesh Zoting died on 23.6.2009. Thereafter, family dispute cropped up between the parties. Non-applicant no.2 was residing in Flat No.5, Ambar Apartment, Bajaj Nagar, Nagpur. Said flat was in the name of mother-in-law of non-applicant no.2. Mother-in-law of non-applicant no.2 filed Civil suit. It is submitted that all the matters are settled between the parties and the First Information Report was lodged by non-applicant no.2 due to misunderstanding. Hence, it is prayed that the same be quashed and set aside.

3. Non-applicant Nos. 1 and 2 appeared and filed their respective replies. Non-applicant no.2 submitted that there was dispute/Civil suits and Criminal cases between the parties. On 4.7.2017, there was compromise between the parties (applicant and non-applicant no.2) before the 7th Civil Judge (Sr.Dn.), Nagpur. She has further submitted that all the disputes are settled between the parties. The non-applicant no.2 has received all the amounts as

mentioned in the Compromise Deed. Therefore, she does not want to prosecute the Criminal case pending against the applicant.

5. Heard the learned Counsel for both the parties. Non-applicant no.2 has stated in her submissions on affidavit that she has received the amount as per the Compromise Deed. They have settled all the disputes between them. She does not want to prosecute the applicant. In view of the submission of non-applicant no.2/complainant there will not be any possibility of giving any evidence against the applicant. There is no possibility of termination of the Criminal case into conviction. In view of the law laid down by Hon'ble Supreme Court in the case of Gian Singh vs. State of Punjab and another reported in (2012) 10 SCC 303, the charge sheet No.157/2010 and Criminal Case No.2896 of 2010 pending before the Learned Judicial Magistrate, First Class (Court No.2), Nagpur are liable to be quashed and set aside.

6. Hence, we allow the Criminal Application in terms of the prayer clause (i) and quash and set aside the the charge sheet No.157/2010 and Criminal Case No.2896 of 2010 pending before

the Learned Judicial Magistrate, First Class (Court No.2), Nagpur.

Order accordingly.

No order as to costs.

JUDGE

JUDGE

[jaiswal]

