

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

CRIMINAL APPLICATION NO.289 OF 2018

Prasad Ramchandra Joshi & Anr.

.... Applicants

versus

State of Maharashtra & Anr.

... Respondents

.....

- Mr.Mahesh R. Joshi, Advocate for the Applicants.
- Mr.Sameer Khedekar, Advocate for the Respondent No.2.
- Dr.F.R.Shaikh, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 13th APRIL, 2018.**

P.C. :

1. The above Application has been filed for quashing of the proceedings being R.C.C. No.481/2002, pending on the file of 8th Joint Civil Judge J.D. and JMFC Kalyan. The said case has arisen out of the FIR being No.123/2002 registered with Bazarpet Police Station, Kalyan, for the offences punishable u/s 420, 467, 468, 471 r/w section 34 of the Indian Penal Code.

2. The said FIR has arisen out of the financial transaction between the First Informant and the Applicants herein, in respect of sale of gold and the subsequent bouncing of the cheques, which were issued by the Applicants covering the value of amount of gold. Be that as it may. It is not necessary to further dilate on facts in view of the fact that the First Informant and the Applicants have settled their dispute, as a consequence of which the Respondent No.2 has filed an affidavit bearing today's date i.e. 13/04/2018, affirmed in this Court, by the First Informant i.e. Mr.Virendra Meghraj Shanklesha. In the context of the relief sought in the above Petition, paragraph Nos.4 and 6 of the said affidavit are material and are reproduced hereinunder.

“4. I say that the Petitioners have now filed above Application u/s 482 of Cr.P.C. for quashing of above R.C.C.no.481/2002 which is pending in the court of 8th Jt.Civil Judge J.D. and JMFC Kalyan on the grounds that there is no offence much less u/s 420, 467, 468, 471 of I.P.C. made out in charge sheet and the sections 467, 468, 471 of I.P.C. are wrongly

applied because the alleged forged Demand Draft was never deposited by the complainant nor there is any complaint made by the Shamrao Vithal Cooperative Bank against Applicants. I, the Respondent no.2, being original complainant accept and acknowledge receipt of my entire amount of Rs.2,80,000/- and am ready to compound the said R.C.C. no. 481 of 2002.

6. *I have no grievance against the Petitioners and I am ready and willing to compound the above R.C.C. no.481/2002 pending in the 8th Jt.Civil Judge J.D. and JMFC Kalyan also. I therefore pray that the present Application for quashing may be allowed in the interest of the justice.”*

3. In paragraph No.5, it has been stated that the First Informant has received the balance amount of Rs.1,40,000/- and as such the entire amount of rs.2,80,000/- has been received from the Applicants.

4. The Respondent No.2 is personally present in Court. He is identified by the learned Counsel Mr.Sameer Khedekar. He

is also identified by his Aadhar Card No.9492 3257 4695. When put in the box and queried, he states that he has read the affidavit, which has been affirmed today in this Court, which is tendered by the learned Counsel for the Applicants across the bar. He further states that the contents of the affidavit are acceptable to him and that he has signed the said affidavit out of his own free will and volition. He further states that he does not want to proceed with the case, in view of the settlement arrived at between the parties.

5. The Applicant No.1 Prasad Ramchandra Joshi is also personally present in the Court. He is identified by the learned counsel Mr.Mahesh Joshi. He is also identified by his Aadhar Card bearing No.5317 2532 9015. When put in the box and queried, he states that there is a settlement between the parties, as a result of which the Respondent No.2 i.e. the First Informant does not desire to proceed with the case in question.

6. The Applicant No.2 Sangram Hari Limaye is also

personally present in the Court. He is also identified by his Aadhar Card No.5059 5833 7439. When put in the box and queried, he states likewise.

7. Having regard to the affidavit filed by the First Informant i.e. Respondent No.2 and the statements made by the Respondent No.2 and Petitioner, when put in the box and queried, the same unequivocally lead to a conclusion that the parties have settled their dispute, as a result of which, the Respondent No.2 does not desire to proceed with the case in question.

8. Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s. State of Punjab & Anr. Reported in (2012) 10 SCC 303 and Narinder Singh & Ors. V/s. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Application. No useful purpose would be served in keeping the proceedings pending.

9. The above Application is accordingly allowed in terms of prayer clause (a). Since the machinery of this Court is utilized for settling the dispute between the parties, the Applicants and the Respondents to pay costs of Rs.10,000/- each with the State Legal Aid Fund, within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)