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

CRIMINAL APPLICATION NO.497 OF 2016

Mohd Salim Masjid Shaikh	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.C.M.Gadekar, for the Applicant.

Mr. Mohd Salim Masjid Shaikh, Applicant is present.

Mr. Mukhtar Amir Sayyed, Respondent No.2 is present.

Mr.A.D.Kamkhedkar, A.P.P for the Respondent-State.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 7th JUNE, 2018

P.C. :

1. The above Application has been filed for quashing of the proceedings being C.C.No.1900/PW/2015, which has arisen out of the FIR bearing C.R. No.20 of 2014, pending before the learned Metropolitan Magistrate, 4th Court, Girgaum, Mumbai. The said FIR has been registered for the offences punishable under Sections 420, 465, 468, 471 of the Indian

Penal Code. The dispute between the parties which has given rise to the FIR is in respect of transfer of a Hero Honda make motorcycle which was belonging to the Respondent No.2 herein. The Respondent No.2 herein i.e. the First Informant has filed an affidavit, which has been affirmed before the Notary Mr.R.K.Bharuka on 25th April, 2016. The said affidavit bears the notarial register No.167/16 dated 25th April, 2016. In the context of the reliefs sought in the above Application, paragraphs 4 and 5 of the said Affidavit are material and are reproduced hereinunder:

- “4. I therefore say that in view of the amicable settlement between me and the applicant. I further say that I do not have any objection if the criminal proceeding in C.C. No.1900/pw/2016 arising out of FIR bearing C.R. No. 20 of 2014 registration with Tardeo Police station, Mumbai pending before Ld. Metropolitan Magistrate 4th Court at Girgaon, Mumbai be quashed and set aside.
5. I state that I am filing this affidavit as per my own will and I give my consent to the prayers made by the applicant for quashing of the subject F.I.R. without any force or coercion.”

2. To the above Application is also annexed the order dated 20th June, 2014, passed by the learned Additional Chief Metropolitan

Magistrate, 4th Court, Girgaum, Mumbai, by which order the application filed by the Respondent No.2 for return of the motorcycle which was seized by the concerned Police Station was allowed and the motorcycle was directed to be handed over to the Respondent No.2, which has pursuant to the said order been handed over to the said Respondent No.2.

3. The Respondent No.2 – Mukhtar Amir Sayyed is personally present in Court. He is identified by the learned counsel for the Applicant, on instructions of the Applicant, who is also personally present in Court. The Respondent No.2 is also identified by his Aadhar Card No.2655 7662 2754. When put in the box and queried, he states that he has read and understood the contents of his affidavit dated 25th April, 2016. He further states that the motorcycle has been received back by him pursuant to the order passed by the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaum, Mumbai. He further states that he has signed the said affidavit of his own free will and volition.

4. The Applicant – Mohd Salim Masjid Shaikh is also personally present in Court. He is identified by the learned counsel Mr.Gadekar. He is

also identified by his Aadhar Card bearing No.3941 6392 2700. He accepts the factum of the settlement having taken place between him and the Respondent No.2, as a result of which the Respondent no.2 does not desire to proceed with the case in question.

5. Having regard to the affidavit filed by the Respondent no.2, the statement made by the Respondent no.2 and the Applicant No.1, when put in the box and queried, as also considering the order dated 20th June, 2014, passed by the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaum, Mumbai, the same leads to a conclusion that the parties have settled their dispute. The motorcycle, which was the bone of contention between the parties is also in possession of the Respondent No.2.

6. Having regard to the judgments of the Apex Court in the matters of *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², no useful purpose would be served in keeping the proceedings pending. The offences admittedly have no societal

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

impact.

7. The above Criminal Application is required to be allowed and is accordingly allowed in terms of prayer clause (a).

8. The above Criminal Application is accordingly disposed of.

9. In the facts and circumstances of the case, the Applicant to deposit costs of Rs.3,000/- with the Kirtikar Law Library, High Court, Bombay, within six weeks from date. Receipt to be obtained and filed in the Registry.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)