

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1952 OF 2018**

Ramesh Chand Arora & Ors.

...Petitioners

Versus

State of Maharashtra & Anr.

...Respondents

Mr. V. K. Singh for the Petitioners

Ms. A. S. Pai, A.P.P for the Respondent No.1-State

Mr. S. B. Thorat for the Respondent No. 2

Petitioners present in Court

Respondent No. 2 present in Court

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
MONDAY, 11th JUNE, 2018***

P.C. :

1 The above Writ Petition has been filed for quashing and setting aside the FIR bearing No. C. R. No. 258 of 2017 registered with the MIDC Police Station, Mumbai, on 15th June 2017 for the offences punishable under Sections 409, 120(B) and 34 of the Indian Penal Code, 1860. The said FIR has its genesis in the transaction in respect of shares between the Petitioners, who are concerned with M/s. Kumar Share Brokers Ltd.

('KSBL' for short) and one M/s. Newtree Trading Securities Pvt. Ltd., of which, the Respondent No. 2 herein i.e. the first informant is the representative. It is required to be noted at this stage that the parties have arrived at a settlement which is reduced into writing by way of the Settlement Deed dated 28th March 2018, executed before Mr. Rajkumar P. Mohite, Advocate and Notary, Government of India on 17th April 2018 and bears the registration No. 971/2018. The said Settlement Deed is exhaustive and provides for various terms and conditions and mutual obligations between the parties. Suffice it would be to state that insofar as the present Petition is concerned, clauses (7) and (8) of the said Settlement Deed is material and is reproduced hereunder :

“7. That the Parties hereto further agree that the party of the First Part hereto undertake to execute all such documents, petitions as may be necessary for getting the Complaint and/or F.I.R and/or Charge sheet filed against the Party of the Second Part quashed/withdrawn and shall also appear before all the Courts, as and when required by the parties of the Second Part. The party of the First Part also agrees not to file any further complaints (Criminal and/or Civil), F.I.R., grievances, Court Complaints, etc. on this or related matter in future or any issue relating to the dispute raised in the F.I.R. Initially bearing No. 258/2017 dated 15.06.2017 registered at M.I.D.C. Police Station, and subsequently bearing EOW C.R. No. 54/17 registered at Economic Offences Wing, Unit-V, Mumbai.

8. *The Parties hereto further agree that the party of the First Part shall withdraw its complaint filed before the M.I.D.C. Police Station and/or E.O.W., Unit-V, Mumbai and that the party of the First Part shall consent, co-operate with the parties of the Second Part, and support the parties of the Second Part in a Criminal Application and/or Writ Petition which shall be filed before the Hon'ble Bombay High Court, as and when required by the parties of the Second Part."*

2 The Respondent No.2 i.e. the first informant has also filed an affidavit dated 5th June 2018. The said affidavit has been affirmed before Mr. Udai Prakash, Advocate and Notary, Government of India, having his Office at Kharodi Village, Marve Road, Malad (West), Mumbai-400 095. In the said affidavit, the factum of the Deed of Settlement having taken place has been referred to in paragraph 2 thereof. Paragraph 3 provides for the Respondent No. 2 giving his no objection to the quashing of the FIR in question. The said paragraph 3 is reproduced hereunder for the sake of ready reference:

"3. I hereby give my consent and no objection out of free will and volition, for quashing of the F.I.R. bearing C.R. No. 54/17 registered against the Petitioner/Original Accused Nos. 1 to 3 at E.O.W., Unit-V, Mumbai for the offence punishable under section 409 read with section 120B of the Indian Penal Code, 1860 (Earlier F.I.R.

Bearing C.R. No. 258/2017 dated 15.06.2017 registered at M.I.D.C. Police Station).”

3 The Respondent No. 2-Sunil Mohan Arya is personally present in Court. He is identified by the learned counsel Mr. Thorat. He is also identified by his Aadhar Card bearing No. 522945419712. When put in the box and queried, he accepts the factum of the settlement having been arrived at between the KSBL and Newtree Trading Company Pvt. Ltd. As a result of which, the Respondent No. 2 i.e. the first informant does not desire to proceed with the FIR in question. In view of the statement recorded of the Petitioner No. 1, it is not necessary to record the statement of the Petitioner Nos. 2 and 3, who are also personally present in Court.

4 Having regard to the Deed of Settlement dated 28th March, 2018, the affidavit filed by the Respondent No. 2 i.e. the first informant giving his no objection, the statements made by the Respondent No. 2 and the Petitioner No. 1 when put in the box and queried, the same leads to an irresistible conclusion that the parties have settled the dispute in respect of the shares, as a result of which, the Respondent No.2 is not desirous of proceeding with the FIR in question.

5 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 proceeding with the FIR in question. The transaction between the Company of the Petitioners and the Company of the Respondent No. 2 can be said to be a business transaction and therefore has no societal impact. The above Criminal Writ Petition is, therefore, required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (b).

6 In the facts and circumstances of the case, when the machinery of this Court is utilized for settling the dispute between the parties, the Petitioners to deposit total costs of Rs.1,00,000/-, the Respondent No. 2 to deposit costs of Rs. 25,000/- with the Mumbai Police Welfare Fund in the Office of the Commissioner of Police, Mumbai, within six weeks from date. Receipts to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065