

Sequeira

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

WRIT PETITION NO. 1885 OF 2017

Mr.Naeem Akhtar Mohammed

Yasin Siddique

... Petitioner

Vs.

The State of Maharashtra and another

... Respondents

Mr.Anand Pande, for the Petitioner .

Mr.J.P.Yagnik, APP, for State.

Mr.Mehul A.Rathod, for Respondent No.2.

Mr.Naeem Siddique, Petitioner -present.

Mr.Karan Jain, Respondent No.2 – present.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.***

Date : September 6, 2018.

P.C. :

Heard. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal.

2. This Writ Petition under Article 226 and 227 read with section 482 of Code of Criminal Procedure for offence punishable under sections 365, 441, 323, 504, 504 and 34 of Indian Penal Code is filed with following substantive prayer clauses (a) and (b).

(a) That, this Honourable Court in jurisdiction under section 482 of the Code of Criminal Procedure, 1973, be pleased to call for the papers and proceedings of F.I.R. registered by the Respondent No.1 under C.R. No.456 of 2016 under Sections 365, 441, 323, 504, 506 read with Section 34 of Indian Penal Code dated 06.12.2016, and its legality and validity be examined;

(b) That this Honourable Court in jurisdiction under section 482 of the Code of Criminal Procedure, 1973, be pleased to set aside and quash F.I.R. registered by the Respondent No.1 under C.R. No.456 of 2016 under Sections 365, 441, 323, 504, 506 read with Section 34 of Indian Penal Code dated 06.12.2016;

3. Pursuant to the notices issued to the Respondents, learned counsel appearing for Respondent No.2 has filed an affidavit and submits that Respondent No.2 is present in the Court. Learned counsel appearing for the Petitioner and Respondent No.2 submits that Petitioner and Respondent No.2 have amicably settled the dispute and to that effect there are averments in affidavit in reply of Respondent No.2.

4. Learned counsel appearing for Respondent No.2 submits that the First Information Report was lodged against the Petitioner

due to some dispute between Respondent No.2 and Petitioner out of misunderstanding. It is submitted that since the dispute arose out of commercial transaction and same is private in nature therefore, learned counsel appearing for the Petitioner and Respondent No.2 pray that the Petition may be allowed. Learned counsel appearing for the Petitioner on instructions of the Petitioner who is present in the Court makes a statement that the Petitioner is ready to deposit Rs.25,000/- in Mumbai Police Welfare Fund to the Axis Bank Account No.465010100008693 within a week.

5. Upon perusal of the reply filed by Respondent No.2, it appears that due to some dispute over non-payment of the amount mentioned in the FIR dispute arose between the Respondent No.2 and Petitioner. Since the Respondent and Petitioner have settled the dispute no fruitful purpose will be served of further investigation of the allegations in the FIR since Respondent No.2 is not going to support the said allegations and further continuation of proceedings based upon such FIR would be exercise in futility and abuse of process of law. Therefore, keeping in view the observations of the Supreme Court in the case of *Gian Singh Vs. State of Punjab and another* (2012) 10 SCC 303, that if the parties have amicably settled the dispute and if it has predominantly a civil flavour, though one of the offence is cognizable, the High Court in exercise of its power under section 482 of Code of Criminal Procedure can quash such First Information Report / charge-sheet / proceedings to prevent

abuse of the process of law. We are inclined to allow the prayer of the Respondent No.2 and Petitioner to quash the FIR. Accordingly, Writ Petition succeeds. Rule is made absolute in terms of prayer clause (b) which reads thus -

'(b) That this Honourable Court in jurisdiction under section 482 of the Code of Criminal Procedure, 1973, be pleased to set aside and quash F.I.R. registered by the Respondent No.1 under C.R. No.456 of 2016 under Sections 365, 441, 323, 504, 506 read with Section 34 of Indian Penal Code dated 06.12.2016;'

Accordingly, the Writ Petition stands disposed of .

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)

Maria
Luiza
Nicholas
Sequeira

Digitally signed
by Maria Luiza
Nicholas
Sequeira
Date: 2018.09.11
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