

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL REVISION APPLICATION NO. 505 OF 2017**

Vinay D. Balse

....Applicant

Vs.

The State of Maharashtra & Anr.

....Respondents.

Mr. Satyanarayan I/by Mr. Prasad Apte for the Applicant.

Mr. Kishor Bhatia for the Respondent No.2.

Ms. Veera Shinde APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 14th SEPTEMBER, 2018.****P.C.:-**

By the present Application under Section 482 of the Code of Criminal Procedure, the Applicant has impugned the Order dated 20th March, 2015 passed below Exhibit-1 in C.C. No 26/SW/2012 by the learned Additional Chief Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai, dismissing the Complaint of the Applicant and the Order dated 18th February 2016 passed in Criminal Revision Application No. 775 of 2015, dismissing the said Revision, by the Additional Sessions Judge, Sessions Court, Greater Mumbai.

2 Heard Mr. Satyanarayan, the learned counsel appearing for the Applicant, Mr. Bhatia, the learned counsel for the Respondent

No.2 and the learned APP. Perused the record.

3 The Applicant and the Respondent No.2 are the partners of M/s. N.M. Raiji & Company (*“the Firm”*), a firm of Chartered Accountants registered with the Institute of Chartered Accountants of India.

That, the Applicant filed a private complaint in the Court of Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai bearing case No. 26/SW/2012 under Sections 403, 406, 409, 420, 468, 471 of the Indian Penal Code, against the Respondent No.2.

It is the precise allegation of the Applicant against the Respondent No.2 that, the Respondent No.2, being a partner of the said firm, submitted bogus bills of fuel of the vehicle, inflated rates of petrol and also submitted certain bills for which the services were actually not utilized by him and therefore, committed the act of criminal breach of trust, cheating and forgery against the firm.

4 The learned Metropolitan Magistrate passed an Order under Section 202 of the Code of Criminal Procedure calling for a report from the M.R.A. Marg Police Station. The police, after conducting inquiry into the matter, submitted its report dated 20th January, 2014, stating that, the dispute between the Applicant and the

Respondent No.2 was of Civil in nature and is a Civil dispute.

5 During the course of inquiry by the police, it was revealed that, for the amounts claimed by the Respondent No. 2, the other partners of the said firm have granted approval in pursuance of the various clauses of the deed of partnership. It was also revealed that, the expenses, which were actually claimed by the Respondent No.2 were reasonable expenses as per the norms of the said firm. Clause No.18 of the Deed of Partnership makes a reference for appointment of Arbitrator in case of any dispute pertaining to the monetary transactions between the partners, which has not been adopted by the Applicant herein.

6 The statement of the owner of Tyre shop indicates that, he had issued the bills as per the goods (Tyres) supplied by him. He has stated that, the size of R-15 tyres of the “Toyota Corolla” motor can be fitted to “Toyato Innova” vehicle. It thus, appears that, as far as the fixing of tyres of “Toyota Corolla” vehicle to “Toyato Innova” vehicle is concerned, there is no substance in the allegations of the Applicant as per the statement of the owner of the Tyre shop.

7 After perusing the entire record, this Court is of the considered view that, there is no substance in the allegations made by

the Applicant in his complaint and it further appears that, there is dispute between the Applicant and the Respondent No.2 over certain issues arising out of their partnership firm, which has been ultimately taken to the criminal Court.

8 It appears that, there is no substance in the complaint lodged by the Applicant herein and therefore, both the Courts below have not committed any error either in law or on facts while dismissing the Complaint.

9 Application being devoid of any merits, is accordingly rejected.

(A.S. GADKARI, J.)

**S S
Mashalkar**

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