

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2104 OF 2018

Sandeep Mahavir Kathak .. Petitioner  
Versus  
State of Maharashtra & Anr. .. Respondents

Mr. Piyush Toshnival I/b. Ashish Satpute for petitioner  
Mr. A.D.Khamkhedkar, APP for State  
Mr. Santosh Pawar for respondent No.2.

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

DATE : 10<sup>th</sup> September 2018.

P.C.

Rule. Rule made returnable forthwith by consent. Heard parties.

2] Pursuant to the notice issued to respondent No.2, the respondent No.2 has filed affidavit.

3] Learned Counsel for petitioner and respondent No.2 jointly submit that parties have settled the dispute. The petitioner and respondent No.2 are present in court. The petitioner and respondent No.2 are identified by the respective Counsel appearing

for them.

4] Learned Counsel for petitioner and respondent No.2 jointly make a statement that the petitioner and respondent No.2 have settled the dispute and respondent No.2 has no objection if the F.I.R. is quashed. On a specific query to the learned APP as to whether the State has any objection to quash the F.I.R., he fairly concedes that the issue involved between the petitioner and respondent No.2 is of individual nature and State has no objection if the F.I.R. is quashed.

5] We have carefully perused the affidavit filed by respondent No.2. It is stated in the said affidavit that pursuant to the settlement arrived at, the petitioner has deposited an amount of Rs.1,50,50,000/- in the Registry of this Court. Accordingly, the consent terms are drawn on 24<sup>th</sup> April 2018. It is further stated by respondent No.2 that he is entitled to withdraw the said amount deposited by the petitioner. It is also stated that when the anticipatory bail application was pending before this court, that time, the respondent No.2 has received a sum of Rs.10 lakhs by cheque.

It is the specific contention in para 7 of the affidavit that pursuant to the settlement the respondent No.2 has no grievance, grudge or animosity against the petitioner and he withdraws his allegations and charges against the petitioner made in C.R.No19 of 2017 registered with Marine Drive police station. It is further stated that, it is a voluntary act of respondent No.2 to enter into such settlement without any coercion. In para 8 of the said affidavit, it is stated that the petitioner will withdraw Summons Case No.256/SS/2017 before 4<sup>th</sup> Metropolitan Magistrate, Girgaon.

6] Since the petitioner and respondent No.2 have settled the dispute and even the amount is deposited by the petitioner, no fruitful purpose will be served by continuing the investigation of the subject case. Further, continuation of investigation or proceeding based upon the Crime No.19 of 2017 would be an abuse of process of law. In that view of the matter, keeping in view the judgement of Supreme Court in the case of Gian Singh Vs. State of Punjab reported in (2012) 10 S.C.C. 303 that in case the parties have settled the dispute, one or some of the offences are, though cognisable, even then, the High Court while exercising jurisdiction

under section 482 Cr.P.C. can quash the F.I.R. or pending proceedings to secure ends of justice or to prevent abuse of process of law.

7] In the light of the above observations, we are of the opinion that the petition deserves to be allowed. Rule is accordingly, made absolute in terms of prayer clause (b).

8] So far as prayer clause (c) is concerned, the respondent No.2 has made a statement in the affidavit in para 8 that he will immediately withdraw the subject case. We make it clear till the said case/ complaint is withdrawn by respondent No.2, he will not be able to withdraw the amount deposited in this Court. However, on withdrawal of the said complaint, the respondent No.2 shall be allowed to withdraw the amount deposited unconditionally.

9] Parties to act on an authenticated copy of this order. In case of any difficulty liberty to move this Court.

(MRS. MRIDULA BHATKAR, J)

(S.S.SHINDE, J.)