

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

CRIMINAL APPLICATIN NO.620 OF 2018

Prasad Pandurang Surve

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Mr.S.R. Gaud, Advocate for the Applicant.
Ms.Aparna Sonawane i/b. Mr.V.K.Gupta, Advocate for Respondent No.2.
Mr.Deepak Thakare, PP a/w. Mrs.S.D. Shinde, APP for the Respondent - State.

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**CORAM : R.M. SAVANT AND
PRAKASH D. NAIK, JJ.**

DATED : JUNE 26, 2018.

P.C. :

The above Criminal Application has been filed for quashing of the proceedings being C.C.No.716/PW/2007, pending in the Court of learned Metropolitan Magistrate 2nd Court, Mazgaon (Sewree), Mumbai. The said case has arisen out of C.R.No.33 of 2007, registered with Pydhonie Police Station, Mumbai on 23rd February, 2007, for the offences punishable under Sections 406, 420, 465, 466, 468 and 471 read with Section 34 of the Indian Penal Code. The said FIR is a fall out of the business transaction between the petitioners and the first informant in which business transaction, it was alleged by the

first informant that he had given an amount of Rs.4,32,000/- to the petitioners in various instalments. It is not necessary to dilate further on facts, as the parties have amicably resolved their dispute. The respondent no.2 herein i.e. the first informant has filed an affidavit before this Court today i.e. 26th June, 2018. The said affidavit is affirmed in this Court today, on the basis of the identification of the affiant by his Aadhar Card bearing No.509804628851. In the context of the reliefs sought in the above application, paragraph 3 of the said affidavit is material and is reproduced herein under:

“3 I say that I have settled my dispute with both the above-named Applicants/Accused as accused has compensated for the damage/loss caused to me by paying an amount of Rs.1,50,000/- (Rupees One Lac and Fifty Thousand Only) through a demand draft bearing its instrument No.223450 dated 21.06.2018 drawn on Union Bank of India in my name, therefore now I am not having any grievance and complaint against both the present Applicants and I am willing to settle by grievance with the Applicants and does not wish to proceed in the above matter before the trial court, as we all have arrived at amicable mutual settlement on above terms.”

2 The respondent no.2 Rajnikant Karia is personally

present in Court. He is identified by Ms.Aparna Sonawane h/f. Mr.V.K. Gupta, learned counsel for the respondent no.2. He is also identified by his Aadhar Card bearing No.509804628851. He states that he has been read over and explained the contents of the affidavit which is tendered today by his counsel. He has understood the contents. He accepts the factum of the settlement arrived at between the parties. He lastly states that he has filed the said affidavit of his own free will and volition.

3 The applicant no.1 Prasad Surve is also personally present in Court. He is identified by Mr.S.R. Gaud, learned counsel or the applicant. He also identified by his Pan Card bearing No.BFHPS8743J. When put in the box and queried, he accepts the factum of settlement between the applicant and respondent no.2 as consequence of which the applicants have paid over an amount of Rs.1,50,000/- by Demand Draft, which is handed over to the respondent no.2 in Court today. Having regard to the affidavit filed by the respondent no.2, it is not necessary to record the statement of second applicant in view of the statement recorded of applicant no.1.

4 In view of the affidavit filed by the respondent no.2,

the statement made by respondent no.2 and the applicant no.1, when put in the box and queried, as also having regard to the fact that the Demand Draft for an amount of Rs.1,50,000/- has been handed over to the respondent no.2, the said facts therefore disclose that the parties have amicably resolved their dispute as a result of which the respondent no.2 does not desire to proceed with the case in question. Having regard to the judgment of the Apex Court in the case of ***Gian Singh Vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Os. Vs. State of Punjab & Anr.***², no useful purpose will be served in keeping the proceedings in question pending., as the same would be a futile exercise in view of the settlement between the parties. The above Criminal Application, is, therefore, required to be allowed and is accordingly allowed in terms of prayer Clause (b).

5 In the facts and circumstances of the case, the petitioner to deposit costs of Rs.10,000/-, with the Mumbai Police Welfare Fund in the office of Commissioner of Police, Mumbai, within six weeks from today. Receipt to be obtained and filed in the Registry.

(PRAKASH D. NAIK, J.)

(R.M. SAVANT, J.)

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065