

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

CRIMINAL APPLICATION NO.777 OF 2018

Gangaram Sadashiv Shelar : Applicant.
Versus
The State of Maharashtra & anr. : Respondents.

Mr. D R More i/by Mr. P M Patil for the Applicant.
Mr. Deepak Thakare, PP, a/w Mrs. S D Shinde, APP for the
Respondent/State.
Mr. Prashant S Hagare for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 18th JULY 2018

P.C.

1 The above Criminal Application has been filed for quashing of the FIR being C.R. No.264 of 2018 registered with the Shikrapur Police Station, Dist. Pune for the offences punishable under Sections 504 and 506 of the Indian Penal Code and Section 39 of the Maharashtra Money Lenders Act, 2014. The said FIR is a fall out of the alleged loan transaction between the Applicant and the Respondent No.2 herein. It is not necessary to dilate further on facts.

2 The Respondent No.2 herein has filed his affidavit dated 26/06/2018 and affirmed before Shaila V Pathak, Advocate & Notary having her address at 8/9, Gundecha Chambers, N. M. Road, Fort, Mumbai 400 023. The said affidavit bears notarial registration No.200 in Vol. No.25 on page 17. In the context of the above Criminal Application paragraph 2 of the said

affidavit is material and is reproduced herein under :-

“2 I say that, I and applicant had amicably settled the disputes between us and therefore I do not want to pursue the complaint. I say that I am not liable to pay any of the amount to the applicant as the amount is already paid and the same is accepted by the applicant. I say that, due to the said settlement I do not want to pursue the said complaint and I have no objection if the same is quashed. I say that, pursuant to this settlement we resolve all of our disputes and there will be no further allegations as against the applicant.”

3 The Respondent No.2 Chandrakant Limbraj Gambhire is personally present in Court. He is identified by the learned counsel Shri Prashant S Hagare. He is also identified by his Aadhar Card bearing No.566639981678. When put in the box and queried, he states that there was a loan transaction between him and the Applicant under which he was advanced a particular amount which he states has already been repaid to the Applicant. He states that he has been read over and explained the contents of his affidavit which is tendered today by his learned counsel and the said affidavit has been filed in view of the settlement between the parties. He further states that in view of the settlement between the parties, he does not desire to proceed with the case in question. He lastly states that he has filed the said affidavit of his own free will and volition.

4 The Applicant – Gangaram Sadashiv Shelar is also personally present in Court. He is identified by the learned counsel Shri P M Patil who is

the advocate on record for the Applicant. He is also identified by his Aadhar Card bearing No.832564198636. When put in the box and queried, he states that there is a settlement between the parties as the Respondent No.2 herein has repaid the amount mentioned in the FIR in question. He further states that on account of the settlement, the Respondent No.2 does not desire to proceed with the case in question.

5 Though much can be said as regards the conduct of the Applicant, in the peculiar facts of the present case wherein the first informant i.e. the Respondent No.2 herein does not desire to proceed with the FIR in question, that we have proceeded to adjudicate upon the matter on the premise that the parties have settled their dispute.

6 As indicated above, the facts and circumstances as aforesaid disclose that the parties have amicably resolved their dispute as a result of which the Respondent No.2 has shown his disinclination to proceed with the FIR in question. In the said context a useful reference could be made to the judgment of the Apex court in Narinder Singh & ors v/s. State of Punjab & Anr reported in 2014 AIR SCW 2065, wherein one of the considerations which ought to weigh according to the Apex Court is the factum of the evidence not coming on record to support the prosecution case.

7 In our view, in view of the settlement between the parties, the instant case can be said to fit within the guidelines laid down by the Apex Court in Narinder Singh's case (supra). However, the conduct of the Applicant cannot be lost sight of and we would accordingly have to put him to terms.

8 The above Criminal Application is required to be allowed and is accordingly allowed in terms of prayer clause (a). In the facts and circumstances of the present case wherein the Applicant has kept himself away from the law. We are of the view that the Applicant would have to do a good turn to the society in general. We, therefore, deem it appropriate to impose costs of Rs.50,000/- on the Applicant to be deposited with the Tata Memorial Hospital, Parel, Mumbai within six weeks from date. The instant order would become operational only on deposit of the aforesaid costs and the receipt produced in that regard evidencing the payment of the said costs. If the costs are not deposited as directed by the instant order, then the benefit of this order would not enure to the Applicant and resultantly the FIR in question would stand revived. The above Criminal Application is accordingly disposed of.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

Digitally
signed by
Laxmikant
Gopal
Chandan
Date:
2018.07.20
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