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

CRIMINAL APPLICATION NO.926 OF 2016

Dilip Sarjerao Konde	...Applicant
Versus	
Rajkumar Kishanchandra Jaswani and Anr.	...Respondents

Mr.Vijay Killedar, for the Applicant.

Mr.A.P.Kulkarni, for the Respondent No.1.

Mrs.A.S.Pai, A.P.P for the Respondent-State

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 7th JUNE, 2018

P.C. :

1. The above Application has been filed for quashing and setting aside of the FIR being C.R.No.53 of 2016, registered with the Faraskhana Police Station, Pune, for the offences punishable under Sections 420, 406, 506(2) of the Indian Penal Code. The First Informant i.e. the Respondent No.1 and the Applicant were the partners of a Partnership Firm being Rameshwar Constructions Partnership Firm. The gravamen of the allegation against the Applicant is the non-deposit of the proceeds received

by him from the sale of the property i.e. flats and shops constructed by the said firm.

2. In support of the prayer which has been sought in the above Application, the learned counsel for the Applicant would point out that the allegations made in the FIR are two fold. The first allegation is in respect of the non-deposit of the proceeds of sale in the partnership account which is in respect of the transactions which took place in the year 2006 – 2007 and the second allegation is in respect of execution of a document by the Applicant along with one Swamidas Mark. The learned counsel would question the second allegation on the basis that the registered document has been executed in favour of the said Swamidas Mark by the partners of the partnership firm, which includes the first informant i.e. the Respondent No.1 herein.

3. Insofar as, the first allegation is concerned, it was sought to be contended by the learned counsel for the Applicant that in the year 2014 an overall settlement was arrived at between the partners and therefore there is no substance in the first allegation. The said contention sought to be urged by the learned counsel for the Applicant is controverted by Mr.Kulkarni,

the learned counsel for the Respondent No.1, the learned counsel would contend that the statement made by Swamidas Mark before the police is different then what is sought to be contended on behalf of the Applicant in the instant Application. The learned counsel would contend that the allegation in the FIR, would has to be read as a whole, which is in respect of the non-deposit of sale proceeds by the Applicant in the partnership account.

4. We have perused the FIR and to satisfy ourselves we have also called upon the learned APP to produce the statement made by the said Swamidas Mark which has been recorded by the police. On such perusal, we find that the statement made by Swamidas belies the case which is sought to be contended by the learned counsel for the Applicant

5. Having regard to the contents of the FIR, as also for the reasons aforestated, we do not deem this a fit case for us to exercise our Jurisdiction under Section 482 of the Code of Criminal Procedure. We refrain ourselves from making any elaborate comments on merits lest it affects the Applicant in the trial.

6. The Application is accordingly dismissed. The ad-interim order stands vacated.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)