

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

CRIMINAL APPLICATION NO.680 OF 2016

M/s Mayar Securities Pvt. Ltd. & Ors.	 Applicants
versus	
Rakesh Chandra Upadhyay & Anr.	... Respondents

**WITH
CRIMINAL APPLICATION NO.1160 OF 2016**

Rakesh Chandra Upadhyay	 Applicant
versus	
The State of Maharashtra & Anr.	... Respondents

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- Mr.R.R. Sonawane, Advocate for the Applicants.
- Mr.D.P. Guchiya, Advocate for the Respondent No.1.
- Mr.F.R. Shaikh, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE : 05th APRIL, 2018.

P.C. :

1. By the above Applications the Petitioner Applicant seeking quashing of the proceedings being C.C. No.350/S/2003 pending on the file of the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai. The said case has arisen out of the FIR No.204/00, registered with the Cuffe Parade Police Station on 02/08/2000 for the offence punishable u/s 409 and 114 of the Indian Penal Code. Insofar as Criminal Application

No.1160/16 is concerned, it seeks the quashing of the proceedings being C.C.No.59/P/2003 pending on the file of the same learned Metropolitan Magistrate, Esplanade Court, Mumbai, for the same offences i.e. 409 and 114 of the IPC.

2. The complaint and the FIR have arisen out of the dispute between the Applicants in both the applications which dispute was in respect of sale of shares. It is not necessary to dilate further on facts, since the parties i.e. the Applicants in both the Applications are filing Consent Terms bearing today's date i.e. 05/04/2018 in each of the Applications. In the context of the relief sought in the above Applications paragraph Nos.4, 5, 6 and 7, which are para-materia in each of the Consent Terms are relevant and are reproduced herein;

- “4. The parties have now amicably settled the dispute with an understanding that Respondent No.1 shall pay to the Applicant No.1 a sum of Rs.16,000/- as and by way of full and final settlement of their disputes.*
- 5. The Respondent No.1 has issued cheque no.472953 dt.5.4.18 of Bharat Bank drawn in favour of the*

Applicant No.1 for a sum of Rs.16,000/- as and by way of payment of the settlement amount and has handed over the said cheque to the advocate of the Applicant No.1.

6. *The Applicant No.1 hereby consents to quashing of the complaint 59/PS/2003 pending before the Ld. 23rd Metropolitan Magistrate, Esplanade Court, Mumbai.*
7. *The Respondent No.1 hereby consents to quashing of Complaint 350/S/2003 filed against the Applicants herein in Criminal Application No.1160/2016.”*

3. The Consent Terms have been signed by the Applicant/Applicants in each of the Applications. The Consent Terms have also been signed by the first informant/Complainant in each of the Applications. Insofar as the Applicant is concerned, the rubber stamp of Mayar Securities Pvt. Ltd. is fixed wherein the authorized signatory Mr.Bharat Bhushan Puri of the Applicant No.1 has affixed his signature. The Applicant in Application No.1160/16 i.e. Rakesh Chandra Upadhyay has also signed the Consent Terms. The Consent Terms have also been

signed by the learned Counsel Mr.R.R. Sonawane and learned Counsel Mr.D.P. Guchiya. The signatures on the Consent Terms have been identified by the learned Counsel as the signatures of the parties they represent in the above Applications. The son of the Applicant Mr.Amit Upadhyay in Application No.1160/16 is also present in the Court. He states that the Consent Terms have been signed by his father out of his free will and volition. The Applicants Mayar Securities Pvt. Ltd. and the other Applicants are based in Delhi. The learned Counsel Mr.Sonawane states that they are therefore not in a position to remain present in Court today. In the light of the Consent Terms and having regard to the fact that the parties have settled the matter, no useful purpose would be served by keeping the proceedings pending.

4. Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s. State of Punjab & Anr. Reported in (2012) 10 SCC 303 and Narinder Singh & Ors. V/s. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Applications.

5. The above Applications are accordingly allowed in terms of prayer clause (a) of each of the Applications.
6. Resultantly the concerned proceedings in the Court of learned Metropolitan Magistrate, 23rd Court, Esplanade, would accordingly stand quashed and set aside.
7. The Applicant in Application No.1160/16 and the Applicant in Application No.680/16 to deposit the costs of Rs.5,000/- each i.e. totalling Rs.10,000/- with the State Legal Aid Fund, within six weeks from date. Receipt to be obtained and filed in the Registry.
8. The Consent Terms, which are paginated from Nos.1 to 3 with the Resolution of the Applicant Mayar Securities Pvt. Ltd. annexed at page No.4, are taken on record and marked 'X' for identification.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)