

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2464 OF 2019

Rishikesh Atul Labhshetwar & Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

...

Mr. V.D. Patil i/b Mr. Yogesh Patil for the petitioners.

Mr. F.R. Shaikh, A.P.P. for the State.

Mr. K.V. Patil for respondent Nos.2 to 7.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 23rd JULY, 2019.

P.C.:-

1. Heard learned counsel for the petitioners, learned counsel for respondent Nos.2 to 7 and learned A.P.P. for the State.

2. The petition is filed for quashing and setting aside the FIR being C.R. No.309 of 2017 registered with Dattawadi Police Station, Pune at the instance of Respondent No.2 for offences punishable under Sections 420, 406 of the IPC and Sections 3, 4 of the MPID Act.

3. The petitioners are the partners of LAB Group. The petitioners represented to Respondent No.2 and others that if they invest in the LAB Group, the amount so invested would be doubled within 36 months. Respondent No.2 – Complainant along with respondent Nos.3 to 7 accordingly invested in LAB Group various amounts totalling to Rs.56,50,000/-. This amount was not repaid by the petitioners and when respondent No.2 - Complainant realised that he has been cheated and deceived, filed the subject FIR.

4. Pending investigation, the parties, however, have settled the disputes amicably and arrived at a MoU/Consent Terms dated 24/04/2019 between the petitioners and respondent Nos.2 to 7. In terms of the MoU, the petitioners have already paid an amount of Rs.56,00,000/- to respondent Nos.2 to 7. In addition to the same, the petitioners have also agreed to pay to respondent Nos.2 to 7 an amount of Rs.15,00,000/-, which came to be deposited in this Court in Anticipatory Bail Application No.1109 of 2018. In pursuance of the MoU referred to above, parties have now approached this court for quashing and setting aside the subject FIR. Respondent Nos.2 to 7 have accordingly filed Affidavits dated 15/06/2019. In para 4 of the said Affidavits, they have given their consent for quashing the FIR. Respondent Nos.2 and 7 are present in the court. On a specific query from us, they state that they have

settled their disputes and they have already received Rs.56,00,000/- from the petitioners. They also state that there is an understanding between the petitioners and respondent Nos.2 to 7 that in addition to the aforesaid amount of Rs.56,00,000/-, the respondent Nos.2 to 7 will be permitted to withdraw an amount of Rs.15,00,000/-, which was deposited by the petitioners in this court for securing the anticipatory bail. In the circumstances, they state that respondent Nos.2 to 7 have no objection to quash and set aside the subject FIR.

5. Mr. Shaikh, learned A.P.P. was on the earlier occasion asked to take instructions regarding the antecedence of the petitioners and whether there are any other investors, who have made deposits with the petitioners. Mr. Shaikh has taken instructions and makes a statement that respondent Nos.2 to 7 are the only persons who had invested the amounts with the petitioners and there are no other persons whose dues are pending with the petitioners. We are conscious of the fact that the offences under the provisions of the MPID Act are serious offences. However, since the petitioners have repaid the entire amount along with the interest, we are inclined to quash the subject FIR.

6. The Hon'ble Apex Court in the case of *Narinder Singh v. State of Punjab (2014) AIR SCW 2065* has observed thus :-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceedings having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

7. In the light of the aforesaid observations we have noted that the two rival parties have amicably settled the dispute between them and buried the hatchet, and since the complainant has been adequately compensated by the petitioners and has also received the entire amount with interest, we are of the opinion that the FIR is liable to be quashed in exercise of our inherent powers to secure the ends of justice.

8. In the backdrop of the above facts and circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh** (*supra*), we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

9. Accordingly, the writ Petition is allowed in terms of prayer clause (a) of the petition and the proceedings of C.R. No.309 of 2017 registered with Dattawadi Police Station, Pune are quashed and set aside subject to the following :-

- (i) The petitioners shall pay costs of Rs.50,000/- to ***“Tata Memorial Hospital”*** an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay costs and produce receipt within stipulated time, petition shall stand dismissed automatically without further

*reference to the Court and order quashing the
FIR shall be treated as non-est.*

10. Subject to the above, criminal writ petition stands disposed of.

11. At this stage, Mr. Patil, learned counsel for respondent Nos.2 to 7 submits that the respondent Nos.3 to 7 have given authority to respondent No.2 to withdraw the amount of Rs.15,00,000/- deposited by the petitioners in Anticipatory Bail Application No.1109 of 2018. An affidavit to that effect affirmed by Respondent Nos.3 to 7 is placed on record. Having gone through the said affidavit, we permit Respondent No.2 to withdraw the said amount of Rs.15,00,000/- deposited by the petitioners in this court along with interest as recorded in order dated 17/01/2019 in Anticipatory Bail Application No.1109 of 2018.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)