

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI WRIT PETITION NO. 2816 OF 2018

(Order is corrected in pursuance of order dated 6/9/2019)

Sulaiman S. Lakhani

...Petitioner

Versus

State of Maharashtra & ors.

...Respondents

Dr. Sujay Kantawala, I/b Neha Ahuja, for the Petitioner.

Ms. Sangita Shinde, APP for the State/Respondent.

Mr. Mohan Rao, I/b Parab & Asso., for Respondent no.3.

Mr. D. M. Deodikar, API Unit V, EOW, present.

Mr. Narayan Poojari, for the Finance Broker.

**CORAM: RANJIT MORE &
N. J. JAMADAR, JJ**

DATED: 29th AUGUST, 2019

PC:-

1. Heard Dr. Kantawala, the learned counsel for the petitioner, Mr. Rao, the learned Counsel for respondent No.3 and Ms. Shinde, the learned APP for State.

2. The petition is filed for quashing and setting aside the First Information Report (FIR) bearing C.R. No.212 of 2018, registered with Santacruz Police Station, Mumbai, at the instance of respondent No.3, for the offences punishable under sections 406, 409 and 420 of the Indian Penal Code, 1860, subsequently transferred to EOW and registered as EOW CR No.32/2018.

3. Initially the above FIR was sought to be quashed on merits. On 8th October, 2018, Dr. Kantawala, the learned

Counsel for the petitioner submitted that the transaction in question is purely of civil nature. It was also submitted that the petitioner is ready and willing to settle the accounts of the complainant and similarly situated persons. In view of the said statement, we deferred the hearing of the petition.

4. Subsequently, petitioner and respondent No.3 – complainant, have settled their disputes amicably vide Consent Terms dated 26th August, 2019. The consent terms are taken on record and marked 'X' for identification. The consent terms show that the claim of respondent no.3 – complainant is satisfied by the petitioner.

5. The Annexures 2, 3 and 4, are annexed to the Consent Terms. Annexure 2 is a chart showing names of 31 persons along with details of amount payable to them by the petitioner. Annexure 3 is a chart of 20 persons along with details of amount payable to them by the petitioner and Annexure 4 is a common chart showing the names of the persons, mentioned in Annexures 2 and 3, to whom the amount is payable by the petitioner along with the account details. The consent terms show that the settlement amount is paid to the respective persons and they have put their signatures thereon.

6. In terms of understanding between the parties, now

they have approached this Court for quashing the subject FIR. Respondent No.3 has filed an affidavit dated 29rd August 2019. In paragraph 2 of the Affidavit, respondent no.3 has made the following averments:

“2. I state that, Petitioner, myself as First Informant and other individuals who had grievance with the Petitioner have entered in settlement of the dispute interse between us. Accordingly Petitioners, myself as First Informant and the other individuals concerned with the dispute vide the impugned FIR, have executed a consent terms dated 26th August, 2019 to amicably resolve disputes interse between us. The said consent terms is signed and executed by Petitioner, myself as First Informant and other individuals including the Finance borker Mr. Paresh Shah, through whom the disputed transactions were entered into between the parties. As per the terms of Consent Terms dated 26th August, 2019 and per it's annexures, the parties have agreed to put an end to their disputes.”

7. In paragraph 3, he has given no objection to quashment of the subject crime.

8. Respondent No.3 is personally present before the Court. On a specific query made by us, respondent No.3 has stated that he has no objection for quashing the subject FIR in view of the settlement between him and the petitioner.

9. Ms. Shinde, the learned APP, having taken instruction from the Investigating Officer, also makes a statement that the petitioner has settled dues of all the persons similarly situated with that of respondent no.3. Statement accepted. She further submits that the petitioner has no criminal antecedents.

10. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of FIR, it transpires that the allegations are totally personal in nature. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab**,¹ we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

11. Accordingly, the writ petition is allowed in terms of prayer Clause (a) subject to payment of costs of Rs.25,000/- to **“Tata Memorial Hospital”** an institution that takes care of advanced and/or terminally ill cancer patients. For the quashment to take effect the petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a period of two weeks from today. Failing to pay cost and produce receipt within stipulated time, the writ petition shall stand dismissed automatically without further reference to the Court and order quashing the criminal proceedings/FIR shall be treated as *non-est*.

1 2014 AIR SCW 2065

12. At this stage, it is pointed out that the EOW has frozen the following accounts of the petitioner:

(i) **Nirmal Bang Securities Pvt. Ltd., DPID
IN301604 Client ID 11267110.**

(ii) Oriental Bank, Saving Bank A/c.
No.10502010031570, Fort Branch.

13. Since the subject FIR is quashed, we direct the EOW to issue appropriate instructions to de-freeze the abovementioned accounts of the petitioner.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]