

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

**CRIMINAL APPLICATION NO. 765 OF 2017**

Subir Kumar Banerjee and Ors.

...Applicants

**Versus**

The State of Maharashtra and Anr.

...Respondents

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Mr. Prasad Dhakephalkar, Senior Counsel, Mr. Manoj Mohite Senior Counsel, Mr. Girish Kulkarni, Mr. Sanjiv Punalekar, Mr. Pranav Bhadeka, Mr. Dharma Raj i/by PRS Legal for Applicants.

Mr. Shirish Gupte, Senior Counsel i/by Mr. Karansingh B. Rajput for Respondent No. 2.

Mr. S.R. Shinde, APP for Respondent – State.

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**CORAM : S. S. SHINDE &  
V. G. BISHT, JJ.**

**DATE : 17<sup>th</sup> MARCH, 2020**

**PER COURT :**

1. Heard learned senior counsel appearing for the Applicants and learned senior counsel appearing for Respondent No. 2.

2. **Rule.** On Rule Mr. Karansingh Rajput waives service for Respondent No. 2 and learned APP Mr. S.R. Shinde waives service for Respondent – State. Heard with the consent of learned counsel appearing for the parties.

3. Pursuant to the notices issued to the Respondents, Respondent No. 2 has filed the affidavit dated 13<sup>th</sup> March, 2020. In the said affidavit detailed reasons are stated in support of consent terms arrived between the parties. It appears that the present Applicants were informant in another FIR and with the consent of the parties FIR bearing C.R. No. 420 of 2015 registered with Rabale Police Station, Navi Mumbai for offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code is quashed by the Division Bench (CORAM : RAJNIT MORE & SARANG V. KOTWAL, JJ.) of this Court. One of the present applicants was Respondent No. 2 in the aforesaid crime.

4. Since the parties have arrived at consent terms, second Respondent does not wish to pursue the proceedings arising out of FIR bearing C.R. No. 381 of 2015 dated 25.09.2015 registered with Powai Police Station, Mumbai for offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 along with 120(B) of the Indian Penal Code. No fruitful purpose will be served by continuing the aforesaid proceedings. It is true that, the offences alleged are cognizable but the Division Bench (CORAM : RANJIT MORE & SARANG V. KOTWAL, JJ.) in FIR bearing C.R. No. 420 of 2015 registered with Rabale Police Station, Navi Mumbai for

offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code has quashed the proceedings arising out of affairs of same trust for which impugned FIR has been registered by the rival group. The Division Bench (CORAM : RAJNIT MORE & SARANG V. KOTWAL, JJ.) of this Court in the case of Mr. Avneesh Singh and Ors. v. The State of Maharashtra and Anr, on the basis of settlement arrived between the applicants therein i.e., second Respondent in present applicant and Respondent No. 2 therein who is one of the applicant in present application, quashed the FIR bearing C.R. No. 203/2015 registered with Khandeshwar Police Station, Navi Mumbai, for the offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code. Moreover, in the present case after an investigation, concerned Investigation Officer has filed 'C' Summary before the concerned Court since he did not find sufficient material to file charge-sheet.

5. Keeping in view the consent terms arrived between the parties and the affidavit filed by the second Respondent, we are inclined to allow the Criminal Application for the reasons stated herein before. Needless to observe that the parties will be bound by the undertaking given by them in the consent terms. The entire dispute arose due to misunderstanding of the trustees.

6. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**<sup>1</sup> has held that, the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offence arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It is further held that, as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guidance engrafted in such power viz.: (I) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

8. In the light of discussion herein above and since the Applicants and second Respondent have amicably settled the dispute with undertaking

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1 2012 (10) SCC 303

that “Both parties i.e. the Singh family and the Banerjee family undertake, confirm and agree that apart from the above proceedings there are no criminal proceedings in this matter and both the parties shall undertake, confirm and agree that they shall not file any other criminal proceedings in respect of the affairs of the Trust Nagar Yuwak Shikshan Sanstha Airoli and/or any other Trust managed/administered by either of the parties, against each other and to that effect affidavit of Applicant no. 2 and second Respondent are placed on record, we are inclined to allow this Criminal Application subject to depositing of Rs. 25,000/- (Rupees Twenty Five Thousand only) with High Court Legal Aid Services Authority, Bombay in terms of prayer clause ‘a’ which reads as under :-

*a) This Hon’ble Court may be pleased to quash the F.I.R. bearing C.R. No. 381 of 2015 dated 25.09.2015 against the present Applicants, registered with the Powai Police Station, Mumbai for offences punishable u/ss. 420, 465, 467, 468, 471 r/w s. 34 of the I.P.C. along with 120(B) lodged by Respondent No. 2 and any further proceedings thereof;*

9. Rule made absolute in terms of prayer clause ‘a’. Accordingly, the Criminal Application(s) stand disposed of.

10. The Applicants shall deposit Rs. 25,000/- (Rupees Twenty Five

Thousand only) with High Court Legal Aid Services Authority, Bombay on or before 30<sup>th</sup> April, 2020.

11. Parties to act upon an authenticated copy of this order.

(V.G. BISHT, J.)

(S. S. SHINDE, J.)