IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 984 OF 2018
(under section 482)

Mr. Priyank Rajesh Mehta and Other … Applicants
V/s.
The State of Maharashtra … Respondent

Mr. Hemant Vinayak Kenjalkar a/w. Ms. Minal Kamble for the applicants.
Ms. P.P. Shinde-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J
DATED : 17th MARCH 2020.

P.C. :

. This an application under section 482 of the Code of Criminal Procedure. The applicant herein takes an exception to the order dated 24th April 2018 passed by the Additional Sessions Judge, Greater Bombay in Criminal Revision Application No. 725 of 2016.

2. The factual matrix of the case is as follows:-

. The applicant no.2 happens to be wife of the applicant no.1. That the applicants are running a partnership firm in the name and style of M/s. Sun World Corporation, a firm engaged in the business of Jewellery designing and consultancy. The applicant no. 2 is said to be a sleeping partner of the said firm.

3. On 30th May 2012 Suresh Dhumal, working as a sales tax officer, lodged a report at Byculla Police Station against the applicants alleging therein, that the applicants are running a partnership firm. That they had filed an application for obtaining a fresh Tax Identification Number (TIN) on 15th February 2012. The said application was filed online. It was clear that they are running the said firm from their residence. Applicant No. 1 was summoned from the sales tax office on 16th February 2012 to verify correctness and genuineness of the contents of the the application which was filed online.

4. On 17th February 2012 at about 3.00 p.m. the applicant no.1 had been to the sales tax office along with Vijaykumar (Chartered Accountant of the said firm). Mr. Priyank Mehta had submitted a relevant document for obtaining the benefits under the provisions of sales tax rules. He had verified the documents in the presence of the complainant.

5. That since the applicants were dealing in jewellery business, from their residential house. The sales tax officers had been to the house on 12th March 2012. They had verified the “No Objection Certificate” dated 3rd February 2012 purportedly signed by the grandfather of the applicant no. 1, and it had transpired that the said no objection certificate is a sham document. That the said document was bearing the signature of Navinchandra Mehta, who happened to the grandfather of the applicant no.1. In the course of verification it

had transpired that Mr. Navinchandra Mehta had expired on 6th April 2006 and therefore, it was clear that he could not have signed the ‘No Objection Certificate” on 3rd February 2012. It was clear that it was a forged and fabricated document.

6. On the basis of the said report, Crime No. 151 of 2012 was registered against the applicants for the offences punishable under section 420, 465, 468, 471 read with 34 of Indian Penal Code. After completion of investigation the charge-sheet was filed on 20th July 2012.

7. The applicant herein had filed a discharge application before the Court of Metropolitan Magistrate, seeking discharge from the said case. It was contended that the papers of investigation do not indicate any offence against the present applicants. It was their contention before the learned Metropolitan Magistrate that Navinchandra Mehta had signed a “No Objection Certificate” and had handed it over to the Chartered Accountant for submitting to the office and to be used whenever required in future.

8. It was also submitted that the same was inadvertently furnished by the staff of Chartered Accountant before the sales tax officer after the death of Navinchandra Mehta. Needless to say that this is a false defence raised in the discharge application. The learned Metropolitan Magistrate had rightly rejected the application on 24th April 2016.

9. Being aggrieved by the said order the applicants herein had filed Criminal Revision Application No. 725 of 2016 before the Court of Sessions. The learned Sessions Court had observed, that the findings recorded by the learned Metropolitan Magistrate did not call for any interference, as justifiable reasons, have been assigned by the Magistrate.

10. Hence, this application.

11. Perused the papers of investigation. It is clear that the applicant no. 2 had no active role to play in the commission of forgery and fabrication of the documents, purportedly signed by the grandfather of the applicant no.1. That she was a sleeping partner, of the said firm and was not looking after the day to day affairs of the firm. At the stage of verification of the document she was not present before the sale tax officers. The applicant no. 1 had not only filed the forged document but had also signed the verification of the said document.

12. There is no role attributed to the applicant no. 2 except for the fact that by virtue of being the wife of the applicant no.1, she was a sleeping partner of M/s. Sun World Corporation. For want of cogent and corroborative evidence, the proceedings as far as the applicant no.2 concerned, deserves to be quashed. The act of forgery and fabrication of the document is specifically attributed to the applicant no.1.

13. The learned counsel for the applicants at the threshold submits that he is not pressing the application filed on behalf of the applicant no.1. Hence, the said application filed on behalf of the applicant no.1 is dismissed as withdrawn.

14. In view of the above discussion, the following order is passed:

ORDER

I) The application is partly allowed and disposed of.

II) The proceedings in CC No. 842/PW/2012 pending before the learned Metropolitan Magistrate 25th Court Mazgaon at Sewree, Mumbai are quashed *qua* the applicant no.2 i.e. Mrs. Shwetal Priyank Mehta.

(SMT. SADHANA S. JADHAV, J)