

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.953 OF 2020

Pasupuleti Shriniwasalu,]
 Proprietor of M/s. Shri Venkatramanna]
 Auto Finance (RSP),]
 R/at., 510, 11th Street, Podalakuru Road,]
 Lake View Colony, Andhrakesari Nagar,]
 Nellor, Andhra Pradesh – 524 004.] ... Petitioner

Versus

1. The State of Maharashtra,]
 through Inspector In Charge, Dadar]
 Police Station, to be served through]
 Public Prosecutor, High Court,]
 Mumbai.]

2. Indraneel Moon]
 (Deputy Manager Assets Finance),]
 of Bombay adult, Indian Inhabitant,]
 In Fortune Integrated Assets Finance]
 Limited, Off. At 2101, Naman]
 Midtown, A-Wing, Senapati Bapat]
 Marg, Elphinston Road (W), Mumbai]
 – 400 013.] ... Respondents

...

Mr. Sushil S. Upadhyay for the petitioner.

Dr. F.R. Shaikh, A.P.P. for respondent No.1 -State.

Mr. Indraneel Moon, respondent No.2, is present in the court.

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CORAM : S.S. SHINDE &
MANISH PITALE, JJ.

RESERVED ON : 15TH FEBRUARY, 2021.

PRONOUNCED ON : 18TH FEBRUARY, 2021.

JUDGMENT:- [Per: Manish Pitale, J.]

1. The petitioner has approached this court with a prayer for quashing the First Information Report (“FIR”) No.169 of 2018 registered by the Dadar Police Station, Dist. Mumbai under Sections 420, 465, 468 and 471 of the Indian Penal Code (“IPC”).

2. Respondent No.2 is the Deputy Manager Assets Finance of a company called Fortune Integrated Assets Finance Limited, Mumbai. Respondent No.2 is the original complainant, at whose behest the aforesaid FIR was registered.

3. The grievance of respondent No.2 was that the proprietor concern of the petitioner had failed to return an amount of Rs.79,78,145/- in the course of business. It was the assertion of respondent No.2 that he had entered into a business understanding with the petitioner with respect to sale and purchase of used vehicles and that during the course of such business transactions, the petitioner had failed to account for the aforesaid amount and that, information regarding 59 such used vehicles and their owners were not correctly provided by the petitioner to

respondent No.2.

4. After the FIR was registered, the parties sat together to explore the possibility of amicable settlement of their *inter se* dispute. In pursuance of the same, the parties have executed consent terms and placed them before the Sessions Court at Bombay where the petitioner had applied for grant of anticipatory bail. On the basis of such consent terms, the Sessions Court, Mumbai, passed an order dated 24/04/2019 granting anticipatory bail to the petitioner.

5. In terms of the settlement between the parties, the petitioner paid certain amounts to respondent No.2 and on 14/02/2020, respondent No.2 issued a “No Due Certificate” to the petitioner. It is in this backdrop, that the present petition has been filed seeking quashing of the FIR.

6. Respondent No.2 appeared before this court in person, and filed consent affidavit for quashing of the FIR. The relevant contents of the said affidavit reads as follows:

“1. I say that I have been served with copy of Petition filed by the Petitioner hereinabove and after going through the contents thereof I have to submit as under:

2. I say that I have lodged an C.R. No.169/2018 in Dadar Police Station, Dist. Mumbai registered under

sec. 420, 465, 468, 471 OF THE INDIAN PENAL CODE and Petitioner has filed the Anticipatory Bail application bearing no.ABA/2070/2018 before the Hon'ble Session court, Bombay.

3. I say that we both have filed a consent term which was made by mutually and the same consent term was filed on 23/04/2019 and as per the consent term both the parties were agreed to pay of Rs.67,11,751/- as on 13th September, 2019 but Rs.30,00,000/- the petitioner has submitted a revised proposal email dated 31/10/2019 to pay Rs.30,00,000/- from October, 2019 to January 2020 toward full and final settlement of dues and paid as per the letter dated 27/12/2019.

4. I say that as per this letter the Petitioner has also requested to waive off the balance Rs.37,11,751/- (Rupees thirty seven lakhs eleven thousand seven hundred fifty one only). And as per the same letter the original complainant and company both were agreed to waive off the said amount of Rs.37,11,751/- (Rupees thirty lakhs eleven thousand seven hundred fifty one only.)

5. I say that the petitioner has paid all the outstanding dues of the original complainant/company and the finally the "FORTUNE INTEGRATED ASSEETS FINANCE LTD." And original complainant has issued NO DUES CERTIFICATE/NO DUES CONFIRMATION letter dated 14/02/2020.

6. I say that as dispute is already settled between original complainant/company and the Petitioner there is no need to further prosecute the FIR No.169/2018 registered by the Dadar Police Station, Dist. Mumbai registered under sec. 420, 465, 468, 471 OF THE INDIAN PENAL CODE."

7. Respondent No.2 was personally present in the court. We interacted with him and he stated that the affidavit has been sworn on the basis of the consent terms arrived at between the parties and the petitioner has indeed paid a specific amount as agreed and the balance amount was waived off by respondent No.2. On this basis, respondent No.2 has stated that he has no objection in quashing the FIR.

8. The Supreme Court in the case of *Gian Singh v. State of Punjab & Anr.*¹ has held that the criminal cases having overwhelmingly and predominately 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 offences 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 has also held that inherent power is of wide plenitude with no statutory

¹ (2012) 10 SCC 303

limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

9. Applying the said position of law laid down by the Hon'ble Supreme Court to the facts of the present case, it becomes evident that the dispute between the parties is essentially of a civil nature. The parties having settled their dispute amicably and the terms of the settlement having been satisfied, there is no possibility of respondent No.2 supporting the allegations made in the FIR and the possibility of the petitioner being convicted is remote. Therefore, there will be no purpose in continuing with the proceedings in pursuance of the aforesaid FIR. In view of the above, the present petition is allowed in terms of prayer clause (a) of the petition, which reads as follows:

“a) that this Hon'ble court be pleased to issue appropriate writ, order and direction directing quashing of the said FIR No.169 of 2018 registered by the Dadar Police Station, Dist. Mumbai registered under sec 420, 465, 468, 471 OF THE INDIAN PENAL CODE such terms as this Hon'ble Court may deem fit and proper.”

10. However, it is made clear that the FIR is quashed on the condition that the petitioner shall deposit an amount of Rs.50,000/- as cost within four weeks from today, in the account of the Children's Aid Society, Mumbai, the details of which are as follows:

Name	:	The Children's Aid Society, Mumbai.
SB. A/c. No.	:	02370100005612
Bank	:	UCO Bank
IFSC Code	:	UCBA0000237

11. On the costs being deposited by the petitioner in the aforesaid bank account, the Children's Aid Society, Mumbai, shall immediately transfer the said amount of costs to the New and Additional Children's Home, Mankhurd, Mumbai.

12. It is further made clear that the cost is condition precedent for quashing of the FIR and it is only upon satisfaction of the aforesaid condition that the FIR shall stand quashed.

13. Rule is made absolute in the aforestated terms.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)