

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 154 OF 2021***

Shaad Randhawa

... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Niranjana Mundargi a/w. Ankita Singh and Krishma Shah i/b. A
& P Partners for the Applicant

Mr. R.V. Gupta for the Respondent No.2

Ms. M.H. Mhatre, APP for the Respondent – State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 25 NOVEMBER 2021

P.C. :-

Heard the learned Counsel for the parties.

2. This Application is filed for quashing of the FIR bearing C.R.No.14 of 2020 dated 13 January 2020 registered against the Petitioner with the Respondent No.1 i.e. M.R.A. Marg Police Station for the offences under Section 465, 467, 471 and 420 of the Indian Penal Code, 1860 by the Respondent No.2, as well as all subsequent

proceedings emanating therefrom in view of the compromise/settlement arrived between the Petitioner and Respondent No.2.

3. The Applicant has sought quashing of the FIR on the ground that the Respondent No.2 has given the consent in the light of the settlement arrived at between the parties. The learned Counsel for the Applicant and the Respondent No.2 state that the dispute is purely between the Applicant and the Respondent No.2, the tenant and the landlord of the premises. The learned Counsel submit that in the light of the law laid down by the Apex Court in the case of *Gian Singh v/s. State of Punjab and Anr.*¹, the FIR in the present case can be quashed by consent. In the light thereof, we have examined the contents of the FIR.

4. The FIR filed by the Respondent No.2 states that he is the owner of the premises in question where part of which is occupied by the Applicant. The Applicant wanted to apply for FL 3 license for serving of liquor in the restaurant in question and for obtaining the license, forged the documents showing that put no objection of the Respondent No.2. The learned Counsel for the Applicant and the learned Counsel for the Respondent No.2 state that the Respondent No.2 had also made a complaint to the Collector in respect of the license in favour of the Applicant on

¹ (2012) 10 SCC 303

identical grounds before the Collector, the Respondent No.2 stated that the issue has been settled and he has no objection for grant of license to the Applicant and by order dated 10 June 2021 the license was so granted to the Applicant. Copy of the order is placed on record. The Respondent No.2 has filed an affidavit wherein he has stated as under :-

“(1) I say that after the death of the original tenant – Mr. Sardara Singh Randhawa, neither I nor any of th co-owners/landlords of the said property had given an NOC for obtaining a liquor permit or transferring the liquor license in the name of his legal heir(s) or for transferring the liquor license in any name.

(2) I say that in December 2018 vide an application filed under the RTI Act, 2005, I sought details from the Maharashtra State Excise Department and learnt that the restaurant was granted permission for sale of foreign liquor. The said license was being renewed annually by the State Excise Department.

(3) Upon perusal of the information obtained under RTI Act, in respect of FL III license no.901, I noticed that along with the original application for obtaining a liquor license made by the Petitioner to the State Excise Department, the Petitioner had submitted forged documents (one NOC Letter and one Rent Receipt) for obtaining the FL III License for his restaurant and thereby cheated me and the State Excise Department.

(4) In the light of the same, I filed a complaint with the MRA Marg Police Station on 7 January 2019 and the MRA Marg Police Station lodged an FIR against the

Petitioner on 13 January 2020.

(5) I say that I have now amicably resolved the dispute with the Petitioner and I do not wish to pursue the matter any further. I say that I have no allegations and grievances against the Petitioner and consent to the quashing of the FIR No.14 of 2020 and any other subsequent proceedings emanating therefrom. I shall not file any further criminal proceedings in the said matter before any such authority against the Petitioner herein.”

6. The learned Counsel for the Respondent No.2 – Original Complainant states that the Respondent No.2 reiterates to contents of the affidavit.

7. The Apex Court in the case of *Gian Singh* has observed thus :-

“ The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory 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. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be

prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to

secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. Having perused the contents of the FIR, we find that the dispute is over no objection for grant of liquor license by the landlord in favour of the occupant. As regard the submission of documents which are stated to be forged is concerned, which would be a matter concerning the Collector, the Collector had an occasion to look at the same grievance when the application in respect of the complaint filed by the Respondent No.2. The Collector has chosen not to take any action and has found that it would be advisable to close the dispute in the light of the interest of revenue and has specifically underscored the ground of interest of Government Revenue. In the light of the settlement, the license was renewed.

9. Therefore, considering the settlement now arrived at between the parties and the reason for extension given in the order by the Government Department through the Collector, Revenue, we find that the case falls within the parameters laid down by the Apex Court as above, no purpose will be served by keeping the prosecution pending which will needlessly cause harassment to both the parties.

10. Considering these facts and circumstances of the case, the Application is allowed in terms of prayer clause (a), which reads thus :-.

“(a) This Hon’ble Court be pleased to quash and set aside the FIR bearing C.R.No.14 of 2020 dated 13 January 2020 registered against the Petitioner with the Respondent No.1 i.e. M.R.A. Marg Police Station for the offences under Section 465, 467, 471 and 420 of the Indian Penal Code, 1860 by the Respondent No.2, as well as all subsequent proceedings emanating therefrom in view of the compromise/settlement arrived between the Petitioner and Respondent No2.”

11. Order accordingly.

12. The Petitioner (Rs.10,000/-) and the Respondent No. 2 (Rs.10,000) will pay amount of Rs.20,000/- to the Police Welfare Fund, Mumbai within a period of four weeks and this order is conditional upon payment of the amount.

13. The learned Counsel for the Petitioner states that directions be issued to the Police Authorities and the Court Receiver to release to goods which are attached according to us. This being a consequence of the order of quashing the FIR. A separate order is not necessary as the sequator will follow.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

Digitally signed by
JYOTI PRAKASH
PAWAR
Date: 2021.12.14
17:46:36 +0530

This order is corrected vide Speaking to Minutes order dated 9 December 2021