

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1611 OF 2019

Sunil Nenaram Choudhari	]	
Age : 38 years,	]	
Occ : Business,	]	
R/o-601, Purshottam Nayan,	]	
G.B.Road, Behind D-Mart,	]	
Kasarwadvali, Thane	]	.. Applicant

VERSUS

1. The State of Maharashtra	]	
	]	
2. Abhyudai Bachhanand Tiwari	]	
Age-Adult, Occu-Service,	]	
R/o-Rambali Chawal, Nityanand Nagar,	]	
Waman Master Wadi, Near Saibaba	]	
Mandir, Ghatkopar (W), Mumbai-86	]	
Presently working as Asst. Manager,	]	
Axis Bank, Br.Airoli, Dist-Thane	]	.. Respondents

Mr.Anand S. Patil for the Applicant.

Mr.Chetan C. Agrawal with Ms.Nikita Kaur for
Respondent No2.

Respondent No.2 in person present.

Mr.S.R.Shinde, APP for the Respondent
No.1/State.

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

DATED : 10TH FEBRUARY, 2021

ORAL JUDGMENT (PER S.S.SHINDE, J.)

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.

2. Pursuant to the notices issued to the respondent, respondent No.2 has filed an affidavit stating therein that applicant has deposited Rs.11,00,000/- towards full and final settlement of the subject loan and, therefore, respondent No.2 does not wish to pursue the allegations in the impugned FIR qua the present applicant.

3. Since there is amicable settlement and respondent No.2 has filed the affidavit and the entire controversy arose due to non refund of the loan by the applicant and now the entire loan amount has been deposited by the applicant in Axis Bank, no fruitful purpose will be served by continuing the further investigation qua the present applicant.

4. Respondent No.2, in his affidavit, in paras 3 to 6 has stated as under :

“3. I state that Applicant/Accused has settled the subject Loan Account with the Axis Bank and paid Rs.11 Lakhs towards full and final settlement of the subject Loan Account. The copy of the settlement letter issued by the Axis Bank is marked as **“Exhibit A”** to the present Affidavit.

4. I state that the Complainant Bank has no claim or grievances against the present Applicant/Accused and therefore has no objection to quash the subject FIR against the present applicant only since the Account is settled and the Bank has received its payment.

5. I state that I am filing the present Affidavit on behalf of Bank since the complainant Mr. Abhudhay Bachanand Tiwari who lodged the FIR on behalf of Bank has resigned from the post and at present working with the Bank on notice period.

6. I state that the Applicant Bank has no objection if this Hon'ble Court is pleased to quash the FIR against the present Applicant/Accused only.

5. The Supreme Court in the case of **Gian Singh v. State of Punjab and Another**¹ 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 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 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.

¹ 2012 (10) SCC 303

6. Since the applicant and respondent No.2 have amicably settled the dispute and the entire loan amount has been refunded by the applicant, in order to secure the ends of justice and to prevent the abuse of the process of the Court, the application deserves to be allowed. Accordingly the Criminal Application is allowed in terms of prayer clause (b), which reads as under :-

“b) This Hon’ble Court may be pleased to call for the record & proceedings of CR No.347/2019 registered with Panvel City Police Station, Dist-Raigad for the offences allegedly committed U/s.409, 420, 465, 467, 468, 471 R/w 34 of Indian Penal Code & after perusing the same, this Hon’ble Court may be pleased to quash & set aside the same only with concerned with the present applicant on such terms & conditions as this Hon’ble Court may deem fit & proper as both the parties have come at amicable settlement.”

7. Rule is made absolute in above terms. The Criminal Application stands disposed of.

8. We make it clear that the investigation can proceed with the other co-accused.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)