

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

68 CRIMINAL APPLICATION NO. 453 OF 2022

MOHSIN S/O MAQBOOL ATTAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Ade Ravindra B.
APP for Respondent No.1-State : Mr. S. S. Dande
Advocate for Respondent No.2 : Mr. R. C. Bora

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 14th MARCH, 2022**

PER COURT:-

1. Heard finally with consent at admission stage.
2. The applicants are seeking quashing of the FIR bearing C.R. No. 22 of 2022 registered with City Chowk Police Station, Aurangabad for the offence punishable under Section 406 r/w 34 of IPC on the ground that the parties have arrived at an amicable settlement.
3. On the basis of the complaint lodged by respondent no.2, the aforesaid crime came to be registered at City Chowk Police Station, Aurangabad. It has been alleged in the complaint that respondent no.2 is earning his livelihood by doing cutlery business and he used to

keep the goods in the shop of applicant no.1 on the monthly rent of Rs.500/-. However, on 02.03.2021 when he visited the shop of applicant no.1 at Chelipura, he noticed that applicant nos. 1 and 2 were, at about 12.00 midnight, loading the said cutlery goods belonging to respondent no.2 in a vehicle. Thus, the complaint came to be lodged with the allegations that the applicants have committed breach of trust. Respondent no.2 has sustained a loss to the tune of Rs.50,000/-.

4. Learned counsel for the applicants and learned counsel appearing for respondent no.2 submit that the parties have arrived at an amicable settlement and in terms of the settlement, applicant no.1 has paid an amount of Rs.50,000/- in cash to respondent no.2 on 24.02.2022. Learned counsel for respondent no.2 submits that respondent no.2 has received the said amount and accordingly, he has issued a receipt to that effect.

5. The original receipt is now shown to us and a copy of the same is taken on record. Respondent no.2 has also filed an affidavit-in-reply to that effect. It has been specifically stated in the affidavit-in-reply that due to intervention of the close relatives, the parties have arrived at the amicable settlement.

6. We have also heard learned APP for the respondent State. Learned APP submits that despite communication, the report about antecedents of the applicants is not received.

7. It appears that the parties have arrived at an amicable settlement and respondent no.2 has also filed affidavit to that effect. This is a private transaction between two persons indulged in small cutlery business. In view of the same, we do not think that the aspect of the antecedents is important. Since respondent no.2 has received the entire amount and issued a receipt to that effect, continuation of the proceedings would be an abuse of the court process. There are bleak chances of conviction of the applicants-accused even if the proceedings remain continued. Thus, we proceed to pass the following order.

ORDER

Criminal application is allowed in terms of prayer clause "B" and disposed off accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)