

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

923 CRIMINAL APPLICATION NO.1683 OF 2022

Abdul Moeez Khan S/o. Abdul Hafiz Khan. ... Applicant

Versus

- 1) The State of Maharashtra.
- 2) Jafar Khan S/o. Jabbar Khan Pathan. ... Respondents

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Mr. Shaikh Faruk V. Patel, Advocate for Applicant.

Mr. P. K. Lakhotiya, APP for Respondent/State.

Mr. S. A. Patel, Advocate for Respondent No.2.

...

CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.

DATE : 19th July, 2022.

PER COURT:

. This is an application for quashing of proceedings pending before learned Judicial Magistrate First Class, Aurangabad vide R.C.C. No.543 of 2020, arising out of C.R. No.55 of 2018 dated 1st March, 2018, registered with City Chowk Police Station, Aurangabad.

2 Leave to amend. Amendment to be carried out forthwith.

3 Though this application is originally filed on merits of the matter, subsequently, there was settlement between the parties and by additional grounds, it is mentioned that the parties intended to settle the matter amicably. An affidavit on behalf of the respondent No.2 is filed in Court today.

4 We have heard learned counsel for the parties.

5 The FIR is lodged by the respondent No.2. He has stated that he was in the export-import business through his firm Worldwide International Services. He has stated that he came in contact with the applicant. The applicant told the informant that he had good contacts in Dubai as he was visiting Dubai from last 14-15 years. He suggested to the informant – respondent No.2 that he should export onion to Dubai because there is good demand for onion there. He assured the informant that money was safe and that the informant would not lose any amount. He took responsibility of securing his payment. The informant believed him. The applicant brought one agreement dated 3rd April, 2017. He got the agreement purportedly signed in Dubai by some other persons. The informant, therefore, started trusting him more. By way of first transaction on 14th April, 2017, the informant exported onion. For first fifteen days, nothing was paid to the

informant. But after that, the amount of first shipment was paid in the account of the first informant. After that, five shipments were sent on 5th May, 2017, 10th May, 2017, 16th May, 2017, 25th May, 2017 and 26th May, 2017. The total amount of onion was Rs.47,67,360/-. Out of which, Rs.22,39,682/- were paid. But the other amount was not given to the informant. The balance amount was Rs.25,11,405/-. After repeated attempts to get money from the applicant, the informant felt cheated since the amount was not paid. He suffered loss to the tune of that amount and therefore, this FIR is lodged.

6 Respondent No.2 – first informant in his affidavit-in-reply has stated in paragraph No.2 that the applicant and the respondent No.2 have arrived at settlement and have entered into an agreement dated 23rd June, 2022. It is mentioned that the respondent No.2 has received an amount of Rs.9,50,000/- through DD and Rs.92,160/- through another DD. The respondent No.2 on receiving this payment has accepted that the matter is settled. He has stated in paragraph No.3 that no further amount is pending with the applicant. In paragraph No.4, he has stated that he did not want to proceed with the complaint/case filed by him against the applicant and he has no objection if the Court quashes the complaint filed by him i.e. FIR bearing C.R. No.55 of 2018, registered with City Chowk Police Station, Aurangabad resulting in R.C.C. No.543 of 2020 before learned Judicial

Magistrate First Class, Aurangabad.

7 Thus, it is very clear that the respondent No.2 does not have grievance anymore against the applicant. Therefore, taking into account this settlement as well as the ratio laid down by the Honourable Supreme Court in the case of *Gian Singh Vs. State of Punjab and another*, reported in, *(2012) 10 Supreme Court Cases 303*, there is no impediment in quashing of the proceedings. The matter is a purely commercial dispute between the two parties, which is now settled. Therefore, this application can be allowed. Hence, the following order:

ORDER

- I. The application is allowed.
- II. The proceedings pending before learned Judicial Magistrate First Class, Aurangabad vide R.C.C. No.543 of 2020, are quashed and set aside.
- III. Considering that the police machinery was used in this case and the charge-sheet is filed after thorough investigation, some cost needs to be imposed on the applicant. Therefore, the applicant is directed to pay Rs.10,000/- (Rupees Ten Thousand Only) to the Chairman, Police Welfare Fund, Aurangabad City. This amount shall be paid within a period of four weeks from today.

IV. This order allowing this application is subject to making payment of this amount as directed.

V. With these directions, the application is disposed of.

nga [BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]