

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2835 OF 2022

SUMIT SANTOSH INGLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. A. C. Deshpande, Advocate for applicant.
Mr. S. D. Ghayal, APP for respondent No.1 – State.
Mr. M. K. Bhosale h/f Mr. S. B. Sontakke, Advocate for respondent
No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE : 4th October, 2022

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

1. Present application has been filed for quashing the First Information Report (for short "FIR") bearing Crime No.225 of 2016 registered with CIDCO Police Station, Dist. Aurangabad for the offence punishable under Section 379 of IPC as well as the further proceedings in R.C.C. No.3148 of 2016 pending before the learned Judicial Magistrate First Class, Aurangabad under Section 379 of the Code of Criminal Procedure (for short "Cr.P.C.") on the basis of compromise arrived at between the parties.

2. The prosecution story is that present respondent No.2 – original informant lodged report with CIDCO Police Station,

Aurangabad on 05.04.2016 that his mobile phone worth Rs.6,600/- has been stolen by somebody from his terrace, where he had gone for sleep. The FIR was against the unknown person and it appears that only Section 379 of Indian Penal Code (for short "IPC") was invoked. Further, it appears that the mobile was kept on track and then it was seized from the present applicant. After the investigation, charge-sheet has been filed. In the meantime, the seized mobile appears to have been given back to the informant and then the informant has come with the case that now he has no grievance against the applicant. In view of the amicable settlement out of the Court, respondent No.2 has no objection for quashing the FIR as well as entire proceedings.

3. As aforesaid, the police have not invoked Section 457 of IPC though it appears that by entering into the building, the mobile was stolen. As on today, the Section that was invoked is 379 of IPC. In fact, there was absolutely no necessity for the applicant and respondent No.2 to come before this Court under Section 482 of Cr.P.C. in view of the fact that offence under Section 379 of IPC is compoundable under Sub-section (1) of Section 320 of Cr.P.C. of the person by whom offence may be compounded is the owner of the property stolen. Under such circumstance, when now the applicant and respondent No.2 have come before this Court and the

matter itself would be disposed of, however, since the applicant is now in a way accepting the allegations against him, we would allow the application, subject to deposit of cost of Rs.5,000/- to be deposited with the High Court Legal Services Sub-Committee, Aurangabad till 14.10.2022. Hence, the following order :-

ORDER

- I) The Application stands allowed.
- II) The FIR bearing Crime No.225 of 2016 registered with CIDCO Police Station, Dist. Aurangabad for the offence punishable under Section 379 of IPC as well as the further proceedings bearing R.C.C. No.3148 of 2016 pending before learned Judicial Magistrate First Class, Aurangabad stand quashed and set aside in view of the compromise arrived at between the parties.
- III) Applicant to deposit cost of Rs.5,000/- to the High Court Legal Services Sub-Committee, Aurangabad till 14.10.2022.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm