

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 44 OF 2022

Pawan Chandulal Khemani

...Applicant

vs.

The State of Maharashtra & Anr.

...Respondents

Mr.Sudip Pasbola with Vachan Bodake with Pinky Sharma i/b V & M Legal for Applicant.

Mr.J.P. Yagnik, APP for State.

Mr.Tejas H. Bhatt for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 8 FEBRUARY 2022

PC. :

. By this application, the Applicant is praying for quashing and setting aside FIR No.13/2021 dated 23 January 2021 registered against the Applicant by Amboli Police Station, Mumbai for the offences punishable under Sections 384, 504, 506(2) of IPC. It is alleged in the said FIR that money was demanded during the telephone conversation by the Director of the complainant company, from Respondent No.2. Respondent No.2, who is the first informant, and his wife are owners of flat bearing No.1505 in the building known as "Runwal Elegante" along with two open car parking spaces by virtue of leave and license agreement dated 6 July 2013 entered into by and between Respondent No.2 and his wife and the Applicant in the capacity as the director of M/s.Baba Realtors and Developers Pvt.Ltd. to occupy the licensed premises with effect from 6 July 2018 to 13 May 2020 on the terms and conditions mentioned in the leave and license agreement.

On expiry of the license period, the dispute arose between the Applicant and the complainant. Thereupon, the FIR in question was lodged. However, subsequently, Respondent No.2 has settled the dispute with the Applicant and filed a consent affidavit on record stating therein that the Applicant company had vacated the licensed premises of the complainant and both have waived monetary claims against each other. Respondent No.2 further states that he has no objection if the present application is allowed and thereby the FIR in question is quashed and set aside.

2. We have heard learned Counsel for the respective parties.

3. Learned Counsel for the Applicant points out the consent affidavit filed on record by Respondent No.2 and thereby, it is prayed that as the matter has been already settled between the parties, the FIR in question may be quashed and set aside.

4. Learned Counsel for Respondent No.2 is not disputing the fact that the matter has already been settled and Respondent No.2 has no objection if the FIR in question is quashed and set aside.

5. After going through the contents of the FIR, it is clear that the dispute is purely a private dispute and no element of public law is involved in the present matter. Moreover, as the parties have settled the dispute amicably, no fruitful purpose would be served even if the trial is permitted to continue and in that case, the whole exercise of conducting the trial would be futile.

6. In these circumstances, and especially, in view of the law laid

down by the Apex Court in the case of **Madan Mohan Abbot vs. State of Punjab**, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the Applicant in the instant case will amount to abuse of the process of Court and therefore, it is in the fitness of things to quash the FIR and proceeding in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

7. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of **Narinder Singh vs. State of Punjab** [2014 AIR SCW 2065], we are of the considered view that there is no impediment in quashing the criminal proceedings in question.

8. In that view of the matter, the writ petition is allowed. The FIR No.13/2021 registered against the Applicant by Amboli Police Station, Mumbai for the offences punishable under Sections 384, 504, 506(2) of IPC is hereby quashed and set aside.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)