

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.56 OF 2022

Basant Kumar Mishra

...Applicant

Versus

1. The State of Maharashtra

2. Rajeshkumar Chhabinath
Mishra

...Respondents

...

Mr. Abhishek R. Mishra for the Applicant.

Mr. Jitendra Mishra i/b. Mr. Ashutosh Mishra for Respondent No.2.

Ms S.D. Shinde, APP for Respondent No.1-State.

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

ORDER DATED : 2nd FEBRUARY, 2022.

P.C. :

1. This is an application moved by the Applicant for quashing of the FIR dated 15/12/2021 registered as C.R. No.1030 of 2021 for the offences punishable under Sections 420 and 408 of the IPC at Dadar Police Station, Mumbai.

2. Respondent No.2 is the first informant, who had lodged the complaint against the present Applicant. Respondent No.2 is

working with M/s. Lloyd Insulation (India) Ltd., Insulation Service Provider Company. Whereas the Applicant is working as Site Supervisor with the aforesaid Company since 01/01/1990. The Applicant was the Project In-charge, at KT Technic, H.P.C.L., Mahul from 28/12/2020 to 07/09/2021. In the internal audit of the Company, in the month of September-2021 it was found that the project at IG Petrochemicals, Taloja Navi Mumbai and KT Technic, H.P.C.L., Mahul, Mumbai are at loss. It was also reported that number of labourers at the sites were less. However, it is alleged that the Applicant has shown more number of labourers and had obtained more money from the Company and excess amount has been deposited by him in his saving account. It is also alleged that the Applicant has manipulated workers' bills for their salaries and the Applicant has sold the scrap of the Company at the site and less amount was deposited in the account of the Company. It is also alleged that the Applicant has removed some scrap of the Company and has kept it at unknown place. In the said backdrop, the complaint was lodged by Respondent No.2, which was registered as C.R. No.1030 of 2021 for the offences punishable under Sections 408 and 420 of the IPC.

3. The Applicant is seeking to quash the FIR by way of present proceedings on the ground that the matter has been settled between the parties and the Respondent No.2-first informant does not want to pursue the FIR further.

4. We have heard learned counsel for both the parties. The Applicant and Respondent No.2 are present through virtual mode of hearing.

5. Learned counsel for the Applicant points out the affidavit filed by Respondent No.2 wherein he has stated that the Applicant has agreed to pay dues of the Company as stated in paragraph 4 of the application and thereupon the Company has agreed to withdraw all allegations against the Applicant and his wife. It is further stated that Respondent No.2 has no objection, if the FIR in question is quashed and set aside.

6. Learned counsel for Respondent No.2 is not disputing the fact of settlement and filing of affidavit by Respondent No.2.

7. In the aforesaid backdrop after going through the contents of the FIR and the allegations made in the FIR it reveals that no element of public law is involved in the present matter and as the dispute is settled, it would be a futile exercise to allow the trial to continue.

8. 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 subject proceedings 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.

9. 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 and FIR in question.

10. In that view of the matter, writ petition is allowed in terms of prayer clause (a). As the police machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Applicant and Respondent No.2 with the cost of Rs.2,50,000/- each, to be paid by the Applicant and Respondent No.2 separately in the name of Maharashtra State Legal Services Authority.

11. For the quashment to take effect, the Applicant and Respondent No.2 shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within the stipulated time, the application shall stand dismissed automatically without

further reference to the Court and order quashing the FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station that subject FIR shall not be treated to have been quashed and that police shall proceed against the Applicant in accordance with law.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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