

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1206 OF 2020**

1. Swapnil Prajapati
2. Laxmikant Sharma
3. Hemant Agrawal
4. Mohit Chhaparwal
5. Girish Pahwani
6. Chandan Singh Rajput

...Petitioners

Versus

1. Sagar Suresh Katkar
2. The State of Maharashtra

...Respondents

...

Mr. Gautam Tiwari i/b. M/s. Probus Legal for the Petitioners.

Mr. Samarth Moray i/b. Ms Shivani Shinde Moray for Respondent No.1.

Ms M.H. Mhatre, APP for Respondent No.2-State.

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

JUDGMENT DATED : 13th JANUARY, 2022.

JUDGMENT :

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the First Information Report No.217 of 2019 dated 30/05/2019 registered with Kasturba Sub Police Station, for the offences punishable under Sections 417, 419, 420 r/w section 34 of the Indian Penal Code and under Sections

66(c) and 66(d) of the Information Technology (Amendment) Act, 2008.

2. The brief facts of the present case are as under:-

The Petitioners herein were either the Directors and/or employees of a company namely M/s. High Brow Market Research Investment Advisor Pvt. Ltd., at some time or the other. The Respondent No.1 is the First Informant as whose instance the FIR in question was registered.

3. It is the case of the Petitioners that the Petitioner Nos.1 and 3 were Directors of the said Company from the period 26/12/2011 to 01/07/2017 and thereafter they resigned. The Petitioner No.5, was an employee of the Company and had absolutely no role to play in the day to day affairs of the Company and /or conduct of it, as such the Petitioners did not have any role in the transactions, which took place between Respondent No.1 and the Company.

4. It is the case of the Petitioners that on 30/05/2019 Respondent No.1 lodged a police complaint alleging therein that

because of misrepresentation of the accused persons named in the FIR, the Informant had invested huge amount in their bogus schemes and thereby he had been cheated by the petitioners. Thereupon the Petitioners have filed this petition to quash the FIR in question.

5. The Informant has filed an affidavit dated 14/02/2020, interalia stating that the Informant and the Petitioners have settled their dispute amicably in view of the consent terms recorded on 14/02/2020 and thereby the Petitioners along with the Company agreed to pay an amount of Rs.7,20,000/- in two installments.

6. It is further stated in the affidavit that in the light of the consent terms, the Informant does not want to proceed with the FIR in question and as such he supports the prayers made in the present petition for quashing of the FIR.

7. After going through the FIR, it is clear that the nature of allegations are of commercial nature and no public element is involved. As the dispute between the parties, has resolved and the Informant has received the amount agreed to be paid by the

Petitioners in view of the consent terms dated 14/02/2020, we are of the opinion that no purpose would be served even if the trial is allowed 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 aforesaid fact-situation, the continuation of prosecution of Petitioner 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 Petitioners and Respondent No.1 with the cost of Rs.10,000/-, to be paid by Petitioners and Respondent No.1 separately in the name of Children Aid Society, Mumbai (Name of Bank Account: Children Aid Soc. Donation, Bank Account No.: 02370100005612, UCO Bank, Branch – Matunga, Mumbai, IFS Code : UCBA0000237).

11. For the quashment to take effect, the Petitioners and Respondent No.1 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 stipulated time, petition 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 Petitioners in accordance with law.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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