

JPP

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

CRIMINAL APPLICATION NO. 634 OF 2022

Shivaputra Revansinddappa Pola

... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Hrishikesh Mundargi i/b. Pravada Raut for the Applicant

Mr. J.P. Yagnik, APP for the Respondent - State

Ms. Rekha Musale for Respondent No.2

***CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.***

DATE : 29 JUNE 2022

P.C. :-

Heard the learned Counsel for the parties.

2. By this application the Applicant is praying for the following relief :-

“(a) This Hon’ble Court be pleased to quash and set aside the FIR and proceedings arising out of C.R. No.106 of 2022 for offences punishable u/s. 420 and 506 of the Indian Penal Code, date 12/04/2022, with Vashi Police Station for offences punishable under Section 420 and 506 of Indian Penal Code, 1860.”

3. The learned Counsel for the Applicant and the learned Counsel for the Respondent – Complainant jointly pray that in view of the settlement arrived at, the FIR be quashed by consent. The Respondent No.2 – Complainant has filed an affidavit of consent. The contents therein are reiterated by the learned Counsel for the Respondent No.2 – Complainant. The learned Counsel for the Applicant and the learned Counsel for the Respondent No.2 – Complainant submit that the issue arose from a commercial transaction in the nature of services of coaching classes and is being resolved on monetary terms and therefore, the Court is empowered to quash this FIR in the light of the decision of the Supreme Court in the case of *Gian Singh v/s. State of Punjab*¹.

4. In the case of *Gian Singh*, the Hon'ble Supreme Court has considered the power of the High Court under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure to quash the FIR/chargesheet with the consent of the complainant in the cases where cognizable offence is involved. In certain cases such as matrimonial cases/commercial cases, etc. where the dispute does not have large scale implications on the society, the FIR/Chargesheet can be quashed by consent. In the light of this position, we have considered the case at hand.

1. 2012(10) SCC 303

5. The case of the Respondent No.2 is that she was working as the Assistant Professor of Electronics and Telecommunications and the Respondent No.2 had enrolled for Ph.D. and had approached the Applicant for study materials. The Respondent No.2 paid an amount of Rs.2,65,000/- on the account of the Applicant and stated to have paid Rs.5,00,000/- by way of cash. According to Respondent No.2, inspite of paying this amount, the Applicant informed the Respondent No.2 that the entire work will have to be done by Respondent No.2. The Respondent No.2 sought repayment of the money paid. Since the amount was not returned, the FIR was filed.

6. In the consent affidavit it is stated that the dispute between the parties is resolved on monetary terms and the amount of Rs.5,00,000/- were paid by cash. This statement is made in the affidavit of the Respondent No.2. As regard the demand draft of Rs.2,65,000/-, the learned Counsel for the Respondent No.2 states that the same has been received in the Court today.

7. Having considered these facts, the nature of the allegation and the stand taken by the parties, we accept the contentions of the learned Counsel for the Applicant and the Respondent – Complainant that the case is made out for quashing of the FIR by consent in the light of the law laid down by the Supreme Court in the case of *Gian Singh*. In lieu of return of the amount, no

useful purpose will be served by keeping the prosecution pending which is not likely to result conviction.

8. The learned APP on instructions from Mr. Yogesh B. Pardeshi, PSI, Vashi Police Station states that there are no antecedents in respect of the Applicant.

9. Accordingly, the Application is allowed in terms of prayer clause (a).

N.R. BORKAR, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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Date: 2022.07.02
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