

Digitally
signed by
DINESH
SADANAND
SHERLA
Date:
2022.08.17
12:07:20
+0500

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2636 OF 2022**

Aditya Ajai Watal

... Petitioner

V/s.

The State of Maharashtra and anr.

... Respondents

Mr. Niranjan Mundargi i/b Mr. Vikram R. Sutaria for the Petitioner.
Ms M.H. Mhatre, APP for the Respondent No.1 – State.
Mr. Satyavrat Joshi i/b Mr. Nitesh J. Sawant for Respondent No.2.

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

DATE : 10 AUGUST 2022.

P.C.

. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.521 of 2011 (hereinafter referred to as “FIR”, for short) dated 23 November 2011 registered at Chatushrunji Police Station, Pune for the offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code and under Sections 43 and 66(b) (c) of the Information Technology Act, 2000 and the R.C.C. No. 4634 of 2012 pending on the file of Judicial Magistrate (First Class), Pune arising out of the said FIR.

2. The aforesaid crime came to be registered at the instance of Respondent No.2. According to the Respondent No.2 in March 2010, the Petitioner along with other accused gave him a proposal that they would develop a cloud-based software and told him to invest Rs.2,00,00,000/- and in-lieu of said investment he would be allotted certain shares in the company which would be formed to launch the said software in the market. According to Respondent No.2 on the assurance of the Petitioner and other accused, he invested Rs.3,18,00,000/-. According to Respondent No.2 after the said software was developed, he requested the Petitioners and other accused to form the company, however, they failed to do so and thereby cheated him.

3. The learned Counsel for the Petitioner and the learned Counsel for the Respondent No.2 jointly submit that the parties have amicably settled the dispute which is predominately of civil character. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. The learned Counsel for the parties submit that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh and ors vs. State of Punjab and anr*¹.

1 (2014) 6 SCC 466

4. Respondent No.2 has filed consent affidavit dated 7 June 2022. Respondent No.2 has stated that he has no objection if the FIR in question is quashed in view of the settlement arrived at between the parties.

5. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*² has held :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

² (2014) 6 SCC 466

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

6. We have examined the facts of the present case in the light of principles laid down by the Hon’ble Supreme Court in the case of *Narinder Singh (supra)*. The dispute appears to be predominately of civil nature. The learned Counsel for the Petitioner has handed over the demand draft of settlement amount to the learned Counsel for the Respondent No.2. In view of the settlement between the parties,

Respondent No.2 is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. Nothing fruitful will therefore come out of the prosecution in question. Considering these facts and circumstances, the petition deserves to be allowed. Hence, Writ Petition is allowed in terms of prayer clause (b), which reads thus:

“b. That this Hon’ble Court be pleased to issue appropriate writ, order and direction for quashing of the proceedings arising out of FIR bearing C.R. No. 521 of 2011 registered with the Chaturshringi Police Station, Pune at the behest of the Respondent No.2 on such terms and conditions as this Hon’ble Court may deem fit and proper;”

7. The Petitioner will pay amount of Rs.50,000/- (Rupees Fifty Thousand) to the Police Welfare Fund viz. *“Maharashtra Police Welfare Fund Account No.914010029005759; IFC code: UTIB0000060”* within six weeks from today and this order is conditional upon payment of costs.

8. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)