

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1079 OF 2018**

Mr. Arvind Brijkishore Sharma @ Jangid and anr.Applicants
Versus
The State of Maharashtra and anr.Respondents

Ms. Sadaf Maldar along with Mr. Mahesh Yagania, advocate for the applicants.
Mr. Mukesh Pandey with Mr. Virendra Pandey, advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE JJ.**

DATE : 28th FEBRUARY, 2022.

P.C. :

1. Heard learned counsel appearing for the respective parties.
2. The present application is filed for seeking quashment of FIR No.208 of 2010 registered with Dindoshi Police Station against the applicants at the instance of respondent No.2 for the offences punishable under Sections 465, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code, 1863 as well as proceedings arising out of the said FIR viz. C.C. No.1371/PW/2012 pending before learned Metropolitan Magistrate, 67th Court at Borivali, Mumbai.

SHUBHADA
SHANKAR
KADAM

Digitally signed
by SHUBHADA
SHANKAR
KADAM
Date:
2022.03.03
13:58:49
+0530

3. As learned counsel appearing for the applicants as well as respondent No.2 submitted before this Court that pending trial, the parties have arrived at amicable settlement and prayed for quashment of the FIR as well as criminal proceedings by consent of the parties, the application is taken up for disposal.

4. Perusal of documents placed on record shows that the FIR was lodged way back in the year 2010 against the applicants. Interestingly, applicant No.1 is the son of respondent No.2. Respondent No.2 has stated in the FIR that after the demise of her husband, applicant No.1 who is her son started acting as a chairman of the Company and this was a self proclaimed chairmanship by applicant No.1. It was also submitted in the FIR that applicant No.1, by playing further mischief, prepared documents and by showing meetings on paper only showed that certain resolutions are passed in the meeting and as such committed an act of breach of trust and deceit. Though initially it was stated in the FIR that the losses suffered by the complainant were to the tune of Rs.5,00,000/-, it seems that after detailed investigation while filing charge-sheet, the investigating agency referred to final losses to the tune of Rs.15,70,513/-. It is stated in the FIR that applicants Nos.1 and 2, by forging signatures and in connivance, played mischief by preparing fabricated documents. There is also reference of fabricated consent deeds in relation to certain landed property.

5. Be that as it may, the parties are now before this Court for quashing the the FIR and criminal case by consent. A consent affidavit dated 26th February, 2022, is filed on behalf of respondent No.2. The same is taken on record. Since respondent No.2 is in her advanced age, it is not possible for her to remain present before the Court. As such, her constituted attorney – Mr.Ajay B.Sharma is present before this Court. The consent affidavit on behalf of respondent No.2 is sworn by Mr. Ajay B. Sharma. It is stated in the said affidavit that the dispute between respondent No.2 and the applicants arose out of various properties of Late Brijkishor Bahadur Singh Sharma and accordingly, respondent No.2 had lodged a complaint against the applicants. Then, it is stated that due to intervention of the relatives and senior respected members in the family, a meeting was arranged to resolve the dispute between the parties, and as a result of which, respondent No.2 and applicants decided to settle the family dispute amicably. Reference is also made to consent terms being filed before learned City Civil Court, Borivali Division, Dindoshi Goregaon in S.C. Suit No.1555 of 2014, a copy of which is annexed at page 51 of the present application. Learned counsel appearing for the respective parties submitted that in view of the consent terms arrived at between the parties and compromise of all disputes, the parties have mutually decided to put an end to the criminal litigation.

6. When this Court put an query to Mr.Ajay B.Sharma, constituted attorney of respondent No.2 who is present before this Court, he stated that respondent No.2 has no objection for quashment of the subject FIR and criminal case and further stated that the consent affidavit executed on behalf of respondent No.2 is out of free will without any undue influence or threat.

7. In view of the fact that the parties have settled their dispute amicably, we are of the opinion that no fruitful purpose would be served by continuing the criminal proceedings. 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 alive, except burdening the Criminal Courts which are already overburdened. 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. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

8. Accordingly, we dispose of the application by quashing the FIR No.208 of 2010 registered with Dindoshi Police Station as well as proceedings arising out the said FIR viz. C.C. No.1371/PW/2012 pending before learned Metropolitan Magistrate, 67th Court at Borivali, Mumbai, subject to payment of costs of Rs.5,00,000/- by the applicants to the **Tata Memorial Hospital, Mumbai**, for the use of its philanthropic purposes, and having its account with Central Bank of India, Account No.1002449683, IFSC Code CBIN0284241, and thereafter, produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the criminal application shall stand dismissed automatically without further reference to the Court and order quashing the FIR as well as criminal case shall be treated as *non-est*.

9. Subject to above, the criminal application stands disposed of.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)