

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

CRIMINAL APPLICATION NO. 1375 OF 2021

Geeta Goenka .. Applicant.
v/s.
The State of Maharashtra & Another .. Respondents.

Ms. Paavani Y. Chadha, for the Applicant.
Ms. M.H. Mhatre, APP for Respondent No.1-State.
Mr. Sameer Sharif i/b. Falcon Legal, for Respondent No.2.

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**CORAM: PRASANNA B. VARALE &
SURENDRA P. TAVADE,JJ.
DATED : 16th FEBRUARY, 2022.**

PC:-

Heard learned Counsel for the Applicant, learned APP for the State and learned Counsel for Respondent No.2.

2 Applicant who is a medical practitioner has appeared before this Court, for seeking quashment of First Information Report in Crime No. 325 of 2016 dated 30th June, 2016 registered at Oshiwara Police Station for the offences punishable under Sections 420 and 406 read with Section 34 of the Indian Penal Code. Respondent No.2 -Aseem Merchant is also present in the Court.

3 Perusal of the documents placed on record shows that the husband of Applicant was introduced to Respondent No.2 in one social function. The introduction turned into a close association not only between the husband of the Applicant but also with Respondent No.2.

The husband of Applicant made repeated offers to Respondent No.2 for investment in certain financial venture. He also assured that on this investment, Respondent No.2 would get hand-some returns. Lured by the assurance and promise of hand-some returns, Respondent No.2 invested an amount of Rs.50 lakh. Subsequently, Respondent No.2 found that he is not receiving the returns as assured. Respondent No.2 then started making enquiry with the husband of Applicant as well as the Applicant. Initially, the Applicant responded to Respondent No.2 by forwarding text messages that he would get his returns in a very short span of time. But even after waiting for considerable period/time, when there was no return of amount, Respondent No.2 again approached the Applicant and her husband. Respondent No.2 was handed over certain cheques as security. When Respondent No.2 deposited those cheques, he found that bank was informed about '*stopping payments*' against those cheques. Respondent No.2 then realized that he was subjected to criminal breach of trust and accordingly lodged report to the Police Station.

4 During the pendency of proceedings, Applicant informed Respondent No.2 that she is willing to part her ways from her husband and to give a full-stop to all past activities. She made an offer of Rs.25 lakh to Respondent No.2 as her share. The Applicant as well as Respondent No.2 decided to resolve this dispute by giving rise to criminal proceeding amicably by settling the terms. Accordingly, the documents captioned as Consent Terms is placed on record as Exh. 'C' (page 174 of the Petition). It would be necessary for us to refer to some important and material clauses of the terms namely – clause nos. (3), (4), (6) (b) are reproduced herein below:-

“(3):- Whereas, now the Applicant has approached and represented to the Respondent No.2 that she has been separated from the abovementioned Vicky Goenka for the last 6 years i.e. March, 2016 onwards. Thus, she further represented that she is now in the midst of Divorce Proceedings and wishes to sever all ties from Vicky Goenka, and his past.

(4) Whereas, the Applicant has further represented to the Respondent No.2 that, in lieu of starting life afresh, she proposed to remit her alleged share of INR 25,00,000/- (Rupees Twenty-Five Lakh only), and after thoughtful consideration, the Respondent No.2 has accepted the same.

(6) (b):- In view of the amicable settlement of disputes and differences, the Respondent No.2 shall give his consent to quash her name in the FIR and proceedings as against the Applicant only, in case No.1623/PW/2017 pending before the Learned Metropolitan Magistrate Railway Mobile Court, Andheri, arising out of the FIR being C. R. No.325/2016 registered with Oshiwara Police Station, Mumbai, nothing here shall affect the case of the Accused No.1. i.e. Vicky Goenka.”

The copies of receipt of payment by Respondent No.2 in installments are also placed on record at page 184, 185 and 186.

5 Respondent No.2 has filed an affidavit in this Court, supporting the Consent Terms and on an enquiry, submits that the consent accorded by him is of his free will.

6 Learned Counsel for the Applicant rely on the Judgment of the Apex Court in ***Gian Singh v/s. State of Punjab & Another reported in (2012) 10 SCC-303*** to submit that dispute between the parties was purely of economical nature and was not having any impact on the society.

7 The Applicant who is present in this Court, voluntarily submitted that as a further act of repentance, she is ready to provide

social service for quashment of the proceedings. Accordingly, Application is allowed in terms of prayer clause (a), subject to the Applicant to attend and provide necessary medical assistance in Snehasadan – A home for the homeless, having address at Vinayalaya Road, Gundavali, Andheri (E), Mumbai, on a periodical basis i.e. twice in a month for a period of six months. Applicant to submit a letter/ certificate Applicant has provided medical assistance to the above referred orphanage for every month.

8 With the above referred conditions, Application is disposed off.

(SURENDRA P. TAVADE,J.)

(PRASANNA B. VARALE,J.)