

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.1051 OF 2022.

{Mahfooz Ali S/o. Yusuf Ali Mirsahab and Ors. **..Vrs..** The State of
Maharashtra and Anr.}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri P. W. Mirza, Advocate for the Applicants.
Shri S. M. Ukey, APP for the Non-Applicant No.1/State.
Shri V. R. Hamand, Advocate for the Non-Applicant No.2.

CORAM : MANISH PITALE AND
VALMIKI SA MENEZES, J.J.

DATE : 23rd AUGUST, 2022.

1. By this application, the applicants are seeking quashing of First Information Report (FIR) and the charge-sheet arising out of criminal proceedings initiated at the behest of the non-applicant no.2. Offences under Sections 448, 468, 471 and 420 read with Section 34 of the Indian Penal Code (IPC) were registered against the applicants at the behest of the non-applicant no.2.

2. On the same grievance, civil proceedings were also initiated in the form of a suit for specific performance, wherein a counter claim was also filed.

3. It appears that during the pendency of the civil and criminal proceedings, including the present application, parties entered into settlement. In pursuance of the settlement, the suit as well as counter claim have been withdrawn. In terms of the settlement, today the

non-applicant no.2, who is present in the Court, has submitted reply through his counsel. The same is taken on record. In the reply, it is stated that since the dispute between the parties has been settled, no fruitful purpose would be served by allowing the criminal proceedings to continue and that therefore, the prayer made in the present application is supported by the non-applicant no.2.

4. The Hon'ble Supreme Court in the case of Gian Singh .Vrs.. State of Punjab and another, 2012 (10) SC 303, has laid down that in certain cases even non compoundable offences could be quashed by the High Court exercising inherent jurisdiction under Section 482 of the Code of Criminal Procedure. Offences have been categorized and it has been laid down that in disputes that are essentially of commercial or private nature leading to registration of criminal offences, upon the dispute being settled, the High Court can exercise its inherent power to quash such proceedings in the interest of justice and to prevent the abuse of the process of law.

5. It has also been laid down in the aforesaid judgment, followed in a number of judgments of the Hon'ble Supreme Court and this Court that if the Court finds that no purpose would be served by allowing criminal proceedings to continue in the backdrop of the settlement of the dispute between the parties and that the possibility of conviction is remote and bleak, power ought to be exercised

for quashing such criminal proceedings in the interest of justice.

6. We are convinced that in view of the reply filed by the non-applicant no.2 and in terms of settlement placed on record, the present case falls within the four corners of law laid down by the Hon'ble Supreme Court in the aforesaid judgment. Accordingly the application deserves to be allowed.

7. But, another aspect of the matter cannot be ignored, that the civil and criminal proceedings stood initiated at the behest of non-applicant no.2, which have been contested by the applicants and the Court system as well as the investigating machinery have been burdened at their behest. They have settled their disputes eventually and now they have come before the Court for terminating the proceedings. We are of the opinion that appropriate costs must be imposed on parties.

8. The amount of costs ought to be utilized for a proper purpose.

9. In view of the above, while allowing the present application, we propose to impose appropriate costs.

10. The application is **allowed** in terms of prayer Clause (i), which reads as follows :

“(i) allow the present application and quash and set aside the Charge Sheet No.293/14 (Annexure-

B) arising out of First Information Report being No.292/13 (Annexure-A) for the offences punishable U/s. 448, 468, 471, 420 r/w 34 of Indian Penal Code registered at police Station Gadge Nagar, Dist. Amravati and the consequent proceedings registered as R.C.C. No.1156/14 pending on the file of Additional Chief Judicial Magistrate, Amravati against the present applicants.”

11. The applicants as well as non-applicant no.2 shall deposit amount of Rs.25,000/- (Twenty Five Thousand Only) each in the Account of Library Committee Government Pleader High Court Nagpur bearing no.129710100025875. The said amount shall be utilized for the purpose of buying books for the Government Pleaders Library.

12. It is made clear that if the amount of costs are not deposited within four weeks from today, the order passed today shall stand recalled.

(VALMIKI SA MENEZES, J.) (MANISH PITALE, J.)

TAMBE