

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

CRIMINAL APPLICATION NO. 732 OF 2019

Mr Ajit Sitaram Keluskar
Age 58 years, Occ. Service,
r/at Room No.20/103/B,
Ashwini Apna Ghar CHS Ltd.
Lokhandwala Complex,
Opp HDFC Bank, Andheri (W)
Mumbai 400053.

... Applicant

Versus

1. The State of Maharashtra

2. M/s Bertha Pereira Trust
A Private Trust, Office at
Rosary Cottage, Orlem-Marve Road,
Malad (W)
Mumbai 400 053
Through its trustee
Mr Dwayne Edward Dias,
Age 53 years,
Occupation – Trustee,
r/at Berthes Solo CHS Ltd.
Sundar Lane, J.B. Colony,
Orlem, Malad (W),
Mumbai 400 064

... Respondents

LATA
SUNIL
PANJWANI
Digitally
signed by
LATA SUNIL
PANJWANI
Date:
2023.07.18
17:08:10
+0530

Ms Lisa Das i/b Jay & Co. for the Applicant.

Mr K V Saste, APP for Respondent No.1-State.

Ms Shivangi Kedia Ruia i/b Girish Kedia for Respondent No.2.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 11th JULY 2023

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. By this Criminal Application, under Section 482 of the Code of Criminal Procedure, 1973, the applicant seeks the quashing of FIR bearing C.R. No.177 of 2019, dated 25 March 2019, registered against him at Malad Police Station, at the instance of Respondent No.2 for the offences punishable under Sections 465, 467, 468, 471, 408 and 420 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. The Petitioner was working at School run by

Respondent trust and was looking for all accounts of trust. During his service Respondent No.2 found that amount of Rs.1,89,00,000/- was misappropriated by him and, therefore, lodged aforesaid FIR against him.

5. The learned counsel for the Petitioner and Respondent No.2 jointly stated that the settlement has been arrived at between the Petitioner and Respondent No.2 trust. They submitted that the amount of Rs.45 lakhs is paid to Respondent No.2. So also a flat, owned by the Petitioner was also transferred in the name of Respondent No.2. They submitted that all the agreed terms between the parties are satisfied. In such circumstances, continuing the prosecution would serve no purpose. They argued that this case is covered by the Hon'ble Supreme Court's decisions in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

6. Learned APP representing Respondent No.1 submits that suitable orders may be passed.

7. The learned counsel for Respondent No.2 tendered an affidavit of Respondent No.2 - Mr Dwayne Edward Dias

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

dated 7 February 2020. Respondent No.2 appeared in Court and stated that he has no objection for quashing the impugned FIR against the Applicant due to a settlement between them. Upon questioning, he confirmed the contents of his affidavit. His counsel identified him, and the learned APP has verified his original Aadhar Card, of which a duly signed copy is placed on record.

8. After examining the present case in accordance with the law laid down by the Hon'ble Supreme Court in the cases of ***Gian Singh and Narinder Singh (supra)*** and the material on record, continuing the prosecution would be an empty formality and serve no purpose given the settlement between the parties. In order to secure ends of justice, it would be appropriate to quash the FIR in the given case. The consent affidavit filed on behalf of Respondent No.2 supports the prayer to quash the impugned FIR. Therefore, based on these facts, FIR bearing C.R. No.177 of 2019 registered with Malad Police Station against the Applicant needs to be quashed and set aside. Accordingly, we allow this Criminal Application in terms of prayer clause (a) and quash and set aside the subject **FIR No. 177 of 2019** and the proceedings arising therefrom, subject to the condition that the Applicant and Respondent

No.2 deposit a costs of Rs.10,000/- each with the High Court Legal Services Authority within three weeks of the uploading of this order.

9. Rule is made absolute in the above terms. Application is disposed of accordingly.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

L.S. Panjwani, P.S.