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Corrected pursuant to speaking to minutes of the order dated 11th August, 2023.

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

CRIMINAL APPLICATION NO.15 OF 2021

Mahibub Dawood Shaikh & Anr.

..Applicants

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Pramod N. Patil a/w Shyamsundar Solanke i/by PNP & Associates, for the Applicants.

Ms. M. H. Mhatre, APP for the Respondent/State.

Mr. Ashok B. Tajane, for the Respondent No.2.

Applicant No.1 - Mr. Mahibub Dawood Shaikh – present.

Applicant No.2 – Mr. Irfan M. Shaikh – present.

Respondent No.2 in person present.

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

DATE : 1st AUGUST, 2023

PC.

1. The applicants were charge-sheeted in Crime No.1331 of 2020 registered on 14th September, 2020 for an offence punishable under Sections 387, 504, 506 r/w 34 of IPC, Section 39 of the Maharashtra Money Lending Act and Sections 3(1)(r), 3(1)(s), 3(1)(z), 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The prosecution case is based on the allegation of the applicants/accused threatening the complainant/respondent No.2 for non-refund/non-payment of the loan amount with accrued interest.

3. It appears that the parties are also litigating before the competent Civil Court through RCS No.417 of 2020 which is for specific performance.

4. The respondent No.2/complainant is present in the Court and is identified by her counsel. The respondent No.2, a lady has interacted with learned APP Ms. M. H. Mhatre. She has admitted to have executed the consent affidavit out of her own free will as she has settled the issue with the applicants including that the plaintiff has also agreed to withdraw the proceeding pending before the Civil Court on the next date.

5. The identity of the respondent No.2/complainant is ascertained from her Aadhar Card, a copy of which is also placed on record.

6. Since the respondent No.2/complainant has decided to settle her grievance with the applicants/accused persons and she has further willingly consented for quashing of the charge-sheet against the applicants, we deem it appropriate to allow such prayer of the applicants by taking on record consent affidavit of the respondent No.2/complainant.

7. For the reasons recorded herein-above, the purpose of continuing prosecution against the applicants will not achieve any output and the said proceedings will be causing hardship and also burden to the public exchequer. That being so and having regard to

the law laid down by the Supreme Court in the matter of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***(2012)10 SCC 303*** and ***Narinder Singh & Ors. Vs. State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***, we deem it appropriate to allow the present proceedings thereby quashing the charge-sheet including FIR being Crime No.1331 of 2020 registered on 14th September, 2020 for an offence punishable under Sections 387, 504, 506 r/w 34 of IPC, Section 39 of the Maharashtra Money Lending Act and Sections 3(1)(r), 3(1)(s), 3(1)(z), 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

8. In the facts and circumstances of the case, we deem it appropriate to direct each of the applicants to pay cost of Rs.25,000/- to the Central Police Welfare Fund within period of four weeks and submit compliance report within said period to that effect before the Court, failing which the order disposing of the petition thereby quashing of the FIR and charge-sheet shall automatically revive and the matter shall be taken up for hearing by issuing warrant against the applicants.

9. The application as such stands disposed of.

10. Needless to clarify that the Special/Sessions Court shall pass consequential order in the matter.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]