



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

CRIMINAL APPLICATION NO. 1316 of 2021

1. Suresh Champalal Jain
Age about 70 years, Occ. Business,
R/o. C1, 1106 Lok Everest, J.S.D. Marg,
Near West Fly Mulund (W),
Mumbai 400080.
2. Manisha Jayesh Joshi
Aged about 43 years, Occ. Business,
R/o. 212, Shivam Building,
First floor, R.N.Narekar Road,
Near Odeon Cenime Ghatkoper(E),
Mumbai 400075.
3. Alpa Jatin Shah
Aged 38 years, Occ. Service,
r/o. Flat No.33, Highway Apartment,
E-Wing Sion East, Mumbai-440022. ... Applicants

Versus

1. The State of Maharashtra
Through its senior police Inspector
Worli Police Station,
Mumbai.
2. Mehta Equities Ltd.
Through its director Prashant Kailash

Bhansali,
Aged about 44 yrs, Occ. Service,
having its registered office at 902,903,
Lodha Supreme, Dr.E. Moses Road,
Worli, Mumbai. Non-applicants

Mr Satish Mande for the Applicant.

Smt. S.D. Shinde, APP for the State.

Mr Mudit Ahuja i/b. Vertices Partners for Respondent No.2.

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

DATE : 11 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 Applicants seek the quashing of FIR No.320 of 2020, dated 19 September 2020, registered against him at Worli Police Station, Mumbai, at the instance of Respondent No.2 for the offences punishable

under Sections 409, 477(A), 465, 467, 468, 471 read with Section 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. The impugned FIR is lodged by one Prashant Bansali who was working with M/s. Mehta Equities Limited (for short 'company') and Respondent No.2 herein, since October 2001. After that in 2002 he was appointed as Director in the company. The company was a broker registered with SEBI. For working with the company as sub-broker, that person has to register with Stock Exchange and only then he could act as sub-broker with the company. The company was using LD Software developed by Apex Software Private Limited. The company had given user id and password to their employees. In June 2020, it revealed that there was certain manipulation in the account of company and misappropriation of amount from May 2015 to December 2019. The FIR gives the list of their clients and misappropriated amount against their names. It is alleged that by using user id and password, the main accused Vikram used to show false credit entries with the company and against those entries the company used to release that amount for purchasing shares for the clients, for that

purpose, Demat accounts of the Applicants-Manisha and Alpa their servants and other associates were used and they use to withdraw those amounts. The allegations against Applicant-Suresh Jain are that he was acting as an unregistered sub-broker and had accepted commission as a sub-broker.

5. The learned counsel for the Applicants and Respondent No.2, jointly stated that the dispute between the parties has been settled amicably. They submitted that continuing the prosecution would serve no purpose, given the settlement between the parties and submitted a copy of the Memorandum of Understanding executed between Applicants and Respondent No.2. 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. The learned counsel for Respondent No.2 tendered a consent affidavit dated 3 August 2022. Respondent No.2 appeared in Court and stated that he is the Director of the company and has no objection if the impugned FIR registered against the Applicants is quashed, since they have arrived at

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

an amicable settlement. 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. Respondent No.2 also tendered a copy of Board Resolutions authorizing him to represent the company.

7. 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, it is clear that the dispute between the parties had been resolved amicably. As the Complainant is no longer willing to support the allegations, continuing the prosecution would be an empty formality. In order to secure ends of justice, it would be appropriate to quash the FIR in the given case. The Memorandum of Understanding and the consent affidavit filed on behalf of Respondent No.2 supports the prayer to quash the impugned FIR. Moreover, the genesis of the offence is the commercial transaction and they have settled their dispute amicably. Therefore, based on these facts, FIR bearing C.R. No.320 of 2020 registered with Worli Police Station, Mumbai, against the Applicants needs to be quashed and set aside. Accordingly, we allow this Criminal Application

in terms of prayer clause (i) and quash and set aside the subject FIR No. 320 of 2020 dated 19 September 2020 and the proceedings arising therefrom *qua* the Applicants only, subject to the condition that the Applicants to deposit a cost of Rs.1,00,000/- each with the High Court Legal Services Authority within three weeks of the uploading of this order. Once the cost is paid, liberty to apply for de-freezing the account.

8. 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.