

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

CRIMINAL APPLICATION NO. 1200 OF 2021

Nishant Premkumar Gaurav

Aged, 41 yrs, Occ.: Business

Res/at, Chegan Neora, PO Jamalabad

Dis. Mujjafarpur, Bihar – 842004

... Applicant

Versus

1. The Senior Police Inspector
(Through Sr. Inspector of Police,
M.H.B. Colony Police Station)

2. Sachin Nandkishor Tiwadi
Aged, 42 yrs, Occ.: Service
Res/at, A/302, Awanti Apartment,
Navgaon, Dahisar West,
Mumbai – 400068.

... Respondents

Ms Reshma Apte for the Applicants.

Mr Samarth Karmarkar for the Respondent No.2.

Mrs S. D. Shinde, APP for the Respondent No.1-State.

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

DATE : 17 JULY 2023

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

Heard Ms Reshma Apte, learned counsel appearing on

behalf of Applicant and Mr Samarth Karmarkar, learned counsel appearing on behalf of Respondent No.2. Mrs S. D. Shinde, learned Additional Public Prosecutor appeared for the State.

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 to quash the FIR No. 215 of 2014, dated 16 August 2014, registered against him at M.H.B. Colony Police Station, Mumbai. The FIR was filed by Respondent No.2 for the offences punishable under Sections 420 and 406 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. The allegations against the Applicant in the FIR are that Respondent No.2, his brother and his friend were enticed by the investment schemes offered by the Applicant's company, Valuecm.com. Initially, the Applicant fulfilled his commitment but later began to default on them.

5. At the outset, the learned counsel for Applicants and Respondent No.2, in unison, submitted that the disputes between the parties had been resolved amicably. They submitted that continuing the prosecution would serve no purpose, given the settlement between the parties. 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 appropriate orders may be passed.

7. The record shows that apart from Respondent No.2, there are two other victims of the alleged fraud, namely Sarvesh Tiwadi/brother of Respondent No.2 and his friend Punit Adnani. They have filed consent affidavits on record, extending their consent to quash the impugned FIR. Before this Court, Respondent No.2, on 22 April 2022, filed an affidavit, recording his consent for quashing the impugned FIR. Today, Sarvesh Tiwadi is present before us and stated that he has no objection to quashing the impugned FIR against the Applicant as they have amicably settled the

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

dispute, and they do not intend to proceed with the matter and have no grievance against the Applicant. When questioned, he reiterated the statement in his affidavit and was identified by learned counsel for Respondent No.2. 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, it is clear that the dispute between the parties had been resolved amicably. As the complainant and the other two victims of the alleged fraud are 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 in this case to put an end to the impugned FIR. The affidavit filed on behalf of Respondent No.2, his brother Sarvesh and his friend Punit, the victim of alleged crime, support this prayer. Additionally, the dispute does not have any ramifications on society at large since the dispute is of a civil flavour.

9. As we expressed our opinion, the learned counsel for the Applicant, on instructions, submitted that the Applicant

would pay a cost of Rs.25,000/- to Kirtikar Law Library, Mumbai. The statement is accepted as an undertaking given to this Court. We, therefore, direct the Applicant to pay the cost of Rs.25,000/- within three weeks of this order being uploaded.

10. Accordingly, we allow this Criminal Application in terms of prayer clause (a) and quash and set aside the subject FIR bearing No. 215 of 2014 registered against the Applicant at M.H.B. Colony Police Station, Mumbai.

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

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

BIPIN
DHARMENDER
PRITHIANI

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BIPIN DHARMENDER
PRITHIANI
Date: 2023.07.27
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