

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

CRIMINAL WRIT PETITION NO. 4173 OF 2022

1. Smt. Neelima Sanjay Kadam
Age 55 years, Occ: Service,
Mistry Nagar, Flat No.22,
Building No.2,
Pandurang Naik Road, Shivaji Park,
Dadar (West), Mumbai 400 016. ... Petitioner

Versus

1. The State of Maharashtra
Through Bhandup Police Station,
Bhandup, Dist. Mumbai
2. Mr Rajendra Sitaram Pathratkar
3/8, Mistry Nagar, Shri Pandurang Naik Road,
Shivaji Park, Dadar (W),
Mumbai 400 016.. ... Respondents

Mr Shahed Ali Ansari for Petitioner.

Smt A.S. Pai, GP @ Mr K V Saste, APPf or the State.

Mr Abhinandan Waghmare for Respondent No.2.

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

DATE : 05 JULY 2023

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Date: 2023.07.11
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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. This Criminal Writ Petition under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, filed by the Petitioner to quash FIR bearing FIR No.15 of 2016 dated 06 December 2016 registered at Bhandup Police Station, Mumbai, for the offences punishable under Sections 425, 426, 463, 464, 465, 470, 471, 199, 200 of the Indian Penal Code, and the proceedings arising therefrom. The petitioners seek quashing on the ground that they have amicably settled their dispute.

4. When this Criminal Writ Petition was placed before us, learned counsel for the Petitioners and Respondents No.2, jointly stated that continuing the prosecution would serve no purpose given their settlement. They submitted that this case falls under the purview of the law laid down by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and

¹ (2012) 10 SCC 303.

Narinder Singh & Ors. v/s. State of Punjab and Anr.²

5. Learned APP for the Respondent No.1 submits that appropriate orders may be passed.

6. The record shows that Respondent No.2 has filed consent affidavit on record. He is present before the Court and states that he has no objection to quash the impugned FIR against the Petitioner given their settlement. Upon questioning, he reiterates the statement in his affidavit and was identified by his counsel.

7. We have examined present case in light of the law laid down by the Hon'ble Supreme Court in the case of ***Gian Singh and Narinder Singh (supra)***. Considering the fact that loan is repaid and parties have settled their dispute, no purpose would be served by continuing the criminal prosecution. To ensure justice is served, it would be appropriate to quash the impugned FIR. The consent affidavit filed on behalf of Respondents No. 2 support the prayer of quashing of the FIR. Having said so, and the fact that the dispute is purely civil in nature, the impugned FIR No. 15 of 2016, registered with Bhandup Police Station, Mumbai against the Petitioner needs to be quashed and set aside.

² (2014) 6 SCC 466.

Accordingly, the impugned FIR No. 15/2016 dated 06 December 2016 for the offences punishable under Sections 425, 426, 463, 464, 465, 470, 471, 199, 200 of the Indian Penal Code and the proceedings arising therefrom are quashed and set aside, subject to condition that Petitioner to pay a cost of Rs.5,000/- with High Court Legal Services Authority within three weeks of this order being uploaded.

8. Rule is made absolute in these terms and this Petition is disposed of subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.