

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

CRIMINAL APPLICATION NO. 1231 OF 2022

1. Zahid Mohammed Akil Sayed
Aged: 53 years, Occ: Business
Residing at 702, Asmita Ajena Complex,
Near Wockhardt Hospital, Mira Road,
District Thane. ... Applicant

Versus

1. The State of Maharashtra
[At the instance of Gamdevi Police Station,
C.R. No. 241 of 2019])

2. Imtiyaz Faizalam Qureshi
Aged: 69 yrs., Occu.: Retired
Residing at 39 B, RNA Sapphire CHS,
Flat No. 902, 9th Floor, Andheri West,
Mumbai – 400053. ... Respondents

Ms. Misbaah Solkar a/w Gaurav Shenoy and Sumaiya Khan
i/by Amin Solkar for Applicant.

Mr. Kedar Patil 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 : 27th JUNE 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 No. 241 of 2019, dated 25 December 2019, registered against him at Gamdevi Police Station, at the instance of Respondent No.2 for the offences punishable under Sections 420, 465, 468, 471 and 506 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. When this Criminal Application for quashing the impugned FIR was placed before us, it was stated by the learned counsel for Applicant and Respondent No.2/Original Complainant that the dispute was purely civil and had been resolved amicably. They submitted that continuing the prosecution would serve no purpose, given the settlement between the parties. They also submitted that a copy of the Memorandum of Understanding executed between Applicant

and Respondent No.2 has also been filed on record. 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

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

6. The learned counsel for Respondent No.2 tendered a consent affidavit dated 27 June 2023. Respondent No.2 appeared in Court and stated that he has no objection to the quashing of 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.

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 has a predominantly civil flavour. Given their mutual settlement, allowing the criminal prosecution to proceed would be an

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

abuse of the process of the Court. Since the parties have reached a settlement, no useful purpose would be served. In order to secure ends of justice, it would be appropriate in the given case that the impugned FIR is put to an end. The Memorandum of Understanding and the consent affidavit filed on behalf of Respondent No.2 support the prayer to quash the impugned FIR. Therefore, based on these facts, FIR bearing C.R. No. 241 of 2019 registered with Gamdevi Police Station against the Applicant needs to be quashed and set aside. In such circumstances, we are inclined to allow this Criminal Application in terms of prayer clause (a) and quash and set aside the subject FIR No. 241 of 2019 dated 25 December 2019 and the proceedings arising therefrom, subject to the condition that the Applicant and Respondent No.2 deposit a sum of Rs.25,000/- each with the High Court Legal Services Authority within three weeks of the uploading of this order.

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

R. N. LADDHA, J.

NITIN W. SAMBRE, J.