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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 1287 OF 2023**

Zakir Hussain Shakir Ali Khan @ J.K. Khan ...Applicant
Versus
1. The Sr. Police Inspector
2. The State of Maharashtra
3. Mrs. Afsha Noor Masood
ur Rehman Ansari ...Respondents

Mr. Mateen Shaikh @ Muskan Shaikh for the Applicant.
Ms S. S. Kushik, APP for the Respondent/State.
Mr. Mohd. Arshad Shaikh for Respondent No.3.
PSI Meher, V.B. Nagar Police Station present.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.
DATE : 23 OCTOBER, 2023.**

PC:-

1. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.269 of 2023 dated 21 August 2023 registered at Vinoba Bhave Nagar Police Station, Mumbai for the offences punishable under Sections 419 and 420 of the Indian Penal Code and Sections 66(C) & 66 (D) of the Information Technology Act.

2. The aforesaid crime came to be registered at the instance of respondent No.3/complainant. The allegations against the applicant are that he had duped the respondent No.3 to the tune of Rs.2,50,000/- on the pretext that he would get her son admitted in medical college through Management quota.

3. The quashing of FIR is sought on the ground that there has been an amicable settlement between the parties and respondent No.3 is no longer desirous of prosecuting the case in question.

4. The learned counsel for the applicant and the learned counsel for the respondent No.3 jointly submit that the parties have amicably settled the dispute. It is submitted that the FIR in question came to be lodged due to some misunderstanding. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. The learned counsel for the parties submit that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of **Narinder Singh and ors vs. State of Punjab and anr**¹.

5. The respondent No.3, who is identified by her Advocate Mr. Mohd. Arshad Shaikh, is personally present in the Court. She confirms about the settlement arrived at with the applicant, and the contents of the consent affidavit dated 7 October 2023 filed by her, wherein she has stated that she received back the amount and she has no objection if the criminal case in question against the applicant is quashed.

6. The Hon'ble Supreme Court in *Narinder Singh (supra)* has held :

" 29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the

¹ (2014) 6 SCC 466

High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

7. The stand of respondent No.3 is that she lodged the report, due to some misunderstanding. In view of the settlement, the respondent No.3 is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. Considering the overall facts and circumstances, in our view, the application deserves to be allowed. Hence, the Application is allowed in terms of prayer clause (a), subject to payment of cost of Rs.1,00,000/- by the applicant to the Sanstha viz. **“Kokan Kala Va Shikshan Vikas Sanstha, Account No. 60129595245, Bank Name : Bank of Maharashtra, IFSC Code: MAHB0000068”** within six weeks from today and the receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the criminal proceedings shall stand recalled.

8. The Application is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)