

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

CRIMINAL APPLICATION NO. 1564 OF 2019

Kartick Agarwala

Age: Adult, Occ: Business

R/at: 26/2B, Raja Bagan Lane,

Near Dundum, Kolkata – 700 030. ... Applicant

Versus

1. The State of Maharashtra

(Through Kandivali Police Station)

2. Mr. Gaurav Vora

Aged: Adult, Occu.: Business

Office at: LaxmiDia Jewel Pvt. Ltd.,

Plot No. 4, BMC Industrial Estate,

MG Road, Sai Nagar, Kandivali – 67. ... Respondents

Mr Abhishek Yende a/w Rushikesh Dube and Saiprasad Hole
for Applicant.

Mr Rajendra for the Respondent No.2.

Mr K. V. Saste, APP for the Respondent No.1-State.

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

DATE : 3rd 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 applicant seeks the quashing of FIR No. 335 of 2018, dated 20 June 2018, registered against him at Kandivali Police Station, at the instance of Respondent No.2 for the offences punishable under Sections 406 and 420 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 arising from misunderstanding and misconception, 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 16 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 had been resolved amicably. As the complainant is no longer

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

willing to support the allegations, which he now described as arising from misunderstanding and misconception, continuing the prosecution would be an empty formality. 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. 335 of 2018 registered with Kandivali Police Station against the Applicant needs to be quashed and set aside. Accordingly, we allow this Criminal Application in terms of prayer clause (a) and quash and set aside the subject FIR No. 335 of 2018 dated 20 June 2018 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.