

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 153 OF 2023

Dr. Rajesh s/o Tulsiram Baghe, Aged
 about 50 years, Occ. Medical
 Practitioner, R/o 31/2, Priyadarshani
 Colony, MHADA, Civil Lines, Nagpur.

... APPLICANT

VERSUS

1. State of Maharashtra, through Police
 Station Officer, Police Station
 Panchpaoli, Nagpur.
2. Mahesh s/o Gangaram Kriplani,
 Aged about 64 years, Occ. Medical
 Practitioner, R/o 14, Aradhana,
 Opp. Tidke Vidyalaya, Katol Road,
 Raj Nagar, Nagpur.

... NON-APPLICANT

Shri A.S. Band, Advocate for the applicant.
 Ms. Deshmukh, A.P.P. for the non-applicant/State.
 Shri Dewani, Advocate for the non-applicant no.2.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 10.02.2023.

JUDGMENT : (Per : Vinay Joshi, J.)

On an oral request, the applicant is permitted to amend

the application by adding prayer seeking quashing of the charge-sheet numbered as R.C.C. no. 1635 of 2022 pending on the file of Civil Judge, Junior Division, Nagpur. Amendment be carried out forthwith.

2. Heard finally by consent of both the learned Counsel appearing for the parties.

3. The applicant has applied for quashing of First Information Report (FIR) in Crime No.783 of 2021 registered with the Panchpaoli Police Station District Nagpur for the offence punishable under Sections 406, 420 of the Indian Penal Code, 1860. Since during the pendency of this application, the charge-sheet has been filed the applicant has also made an additional prayer of quashing of the charge-sheet.

4. It is the informant's case that in pursuance of friendly relations, he had lend Rs.25 lakhs to the applicant on assurance to repay within stipulated time. Since there was no refund, the informant realized that he has been deceived and therefore, the report.

5. During pendency of this application, the applicant was arrested in concerned crime. In that relation, the informant has

challenged one of the order passed by the Magistrate in Criminal Writ Petition No.765 of 2021. In said Writ Petition, the parties arrived on compromise of which the settlement terms have been filed in the Petition. There was breach of settlement terms which gave rise to the informant for filing Contempt Petition No.40 of 2022. In said Contempt Petition, the applicant has paid entire amount as undertaken by way of settlement filed in Criminal Writ Petition.

6. In the circumstance, the matter is settled and therefore, both sides have come before us with an urge to quash the above referred proceedings. The informant has today filed an affidavit affirming the settlement with further request for quashing of FIR. The informant is present in the Court who has been identified by the learned Counsel Shri Dewani appearing on his behalf. We have also inquired with the informant to which he has accepted about the settlement and his consent for quashing of the FIR and charge-sheet.

7. Basically, it was a commercial dispute in between to medical officers. The dispute gave rise for the Police to rotate the machinery, investigate the matter and file the charge-sheet. Not only that, repeatedly the parties have come to this Court for various

reliefs. Having regard to above facts, the applicant undertakes to deposit sum of Rs.10,000/- in this Court. Since it was a purely commercial dispute and the parties have settled the matter, there is no purpose in continuing the trial as it would be exercise in futility.

8. In view of above, the application is allowed. The First Information Report vide Crime No.783 of 2021 registered with the Panchpaoli Police Station District Nagpur for the offence punishable under Sections 406, 420 of the Indian Penal Code, 1860 along with related Criminal Case bearing R.C.C. No.1635 of 2022 pending on the file of Civil Judge, Junior Division Nagpur is hereby quashed and set aside.

9. The above order is subject to applicant depositing Rs.10,000/- with the High Court Legal Aid Sub-Committee Nagpur within a week from today.

10. The learned Magistrate shall formally dispose the criminal case after ensuring the deposit of amount as ordered herein.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)