

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

CRIMINAL WRIT PETITION NO.1164 OF 2022

Mukesh Sukhdev Sharma and
Anr.

...Petitioners

Versus

The State of Maharashtra and
Anr.

...Respondents

....

Dr. Uday Warunjikar with Ms Sonali Chavan, Mr. Jenish Jain and Mr. Gagandeep Goel for the Petitioners.

Mr. Mukesh Sharma, Petitioner No.1 present through VC

Mr. Vipin Sequira present through VC.

**CORAM: SMT. ANUJA PRABHUDESSAI &
N.R. BORKAR, JJ.**

DATED: 16th JANUARY, 2024.

P.C.:-

1. This is a petition under Article 226 of the Constitution of India to quash the FIR No.495 of 2014 registered with Andheri Police Station, Mumbai, for the offences punishable under Sections 120-B, 406, 419, 420, 465, 467, 468 and 471 of the IPC and Section 66(c) of the Information Technology Act, 2000 and Criminal Case No. PW/241/2016 arising from the said crime and pending before the learned Metropolitan Magistrate, Andheri.

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2. The aforesaid crime was registered pursuant to the FIR lodged by Respondent No.2 through its director Mr. Harvinder Singh Gian Singh Bindra. It is the case of the prosecution that the Petitioners had entered into several agreements with Respondent No.2-Company for various facilities and services such as kiosk banking, mini bank, etc. It is alleged that Petitioner No.1 prepared some false documents and sent some fabricated SMS and caused loss and cheated to the Company to the tune of Rs.1,59,00,000/-.

3. Learned counsel for the Petitioners and Respondent No.2 state that both parties have settled the dispute. Copy of the Memorandum of Understanding dated 17/02/2021 is placed on record at Exhibit-H. Mr. Vipin Sequeira, who is the Power of Attorney of the directors of Respondent No.2-Company has filed his affidavit. He has placed on record copy of his Special Power of Attorney as well as the extract of minutes of meeting dated 15/02/2021 authorising him to settle and compromise the complaints including the subject complaint filed on behalf of the Company.

4. Mr. Vipin Sequeira, who appeared through virtual mode has confirmed the contents of the affidavit. He has reiterated that he has been authorised to represent Respondent No.2-Company and has given no objection to quash the subject FIR and the criminal proceedings arising therefrom. He has also reiterated that the matter has been amicably settled and that Respondent No.2 has decided to withdraw all the allegations against the Petitioners herein.

5. We have gone through the records. In our considered view, the allegations in the FIR and the other records do not disclose offence under Section 467 of the IPC. The parties have settled the dispute amicably. The settlement is voluntary and genuine. In such circumstances, continuance of criminal proceedings will be an exercise in futility. Hence, this is a fit case to exercise powers under Article 226 of the Constitution of India to prevent abuse of process of law.

6. Hence, the writ petition is allowed in terms of prayer

clause (b). The FIR No.495 of 2014 registered with Andheri Police Station, Mumbai, for the offences punishable under Sections 120-B, 406, 419, 420, 465, 467, 468 and 471 of the IPC and Section 66(c) of the Information Technology Act, 2000 and Criminal Case No. PW/241/2016 arising from the said crime and pending before the learned Metropolitan Magistrate, Andheri, stand quashed subject to payment of cost Rs.60,000/- to be paid by the Petitioners and Respondent No.2 to Tata Memorial Hospital within a period of 7 days. Receipt to be filed in the registry.

7. The petition to be listed after two weeks in the event the matter is not complied with.

8. Interim application, if any, stands disposed of.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)