

**(2022) 04 BOM CK 0023**

**In the Bombay High Court**

**Case No :** Criminal Application (Appeal) No. 471 Of 2022

Vinu And Others

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

**Date of Decision :** 05-04-2022

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 482  
Indian Penal Code, 1860 — Section 403, 420, 424

**Citation :** (2022) 04 BOM CK 0023

**Hon'ble Judges :** V.M.Deshpande, J;Amit B.Borkar, J

**Bench :** Division Bench

**Advocate :** N. L. Jaiswal, S. S. Doifode

**Final Decision :** Dismissed

## Judgement

Amit B. Borkar, J

1. Rule. Rule is made returnable forthwith. Heard finally by consent of learned counsel for the parties.

2. By this application under Section 482 of the Code of Criminal Procedure, applicants are challenging First Information Report No. 458/2021, registered with Police Station, Sadar, Nagpur for an offence punishable under Sections 420, 403, 424 of the Indian Penal Code.

3. The FIR came to be registered by applicant no.1 with an accusation that he was cheated by applicant no.2 by misappropriation of the funds of their firm and failing to repay the amount of Rs.30 Lakh. It is further stated that there was arbitration proceeding between the parties wherein an award has been passed against the applicant no.2.

4. During the pendency of investigation, applicants have amicably resolved their dispute. The applicants have further filed on record memorandum of understanding signed by the applicant nos. 1 and 2 wherein it has been stated

that the dispute between the applicants has been settled.

5. Today, both the applicants are present in the Court. They state that they have amicably resolved the dispute among themselves. The applicant no.1 stated that he has no objection for quashing of the proceedings against the applicant no.2.

6. We have carefully considered allegations made in FIR and we are satisfied that dispute between parties predominantly is of civil nature arising out of commercial nature of transaction.

7. Though it is true that the offence under Section 420, 403 and 424 of the IPC is a serious offence, it would be profitable to refer to the judgment of the Hon'ble Apex Court in the case of Narinder Singh and Ors. Vs. State of Punjab and anr, (2014) 6 Supreme Court Cases 466 The Hon'ble Apex Court, while evaluating the inherent powers of the High Courts under Section 482 of the Code of Criminal Procedure to quash criminal proceedings involving non-compoundable offences, in paragraph 29.4, observed thus:

"29.4. On the other hand, 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."

Hon'ble Apex Court, established guiding principles for the High Courts to be followed while deciding the matters under Section 482 of the Code of Criminal Procedure and made it clear that the Court cannot decline to quash a criminal case in which the FIR incorporates a particular provision, which is a serious offence or an offence against the society. The Court shall make all endeavour whether the FIR indeed discloses the ingredient of such an offence and Court can accept the settlement and quash the FIR if the Court is of the opinion that such an offence is unnecessarily incorporated in the FIR.

8. In view of the amicable settlement of the dispute between the parties, there is no impediment in quashing the FIR against the applicant no.2. We, therefore, pass the following order. Rule is made absolute in terms of prayer clause (a) of the petition, which reads as under:

(a) Quash and set aside the First Information Report bearing Crime No.458 of 2021 registered with Sadar Police Station, Nagpur City, Nagpur for the offences punishable under sections 420, 403, 424 of the I.P.C. against no.2 at Annexure A and acquit the said applicant."