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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3472 OF 2000

Dr. Moreshwar Gosavi	...	Applicant
V/s.		
State of Maharashtra and anr.	...	Respondents

**WITH
CIVIL WRIT PETITION NO. 4721 OF 2003**

Gokhale Education Society & Ors.	..	Petitioners
V/s.		
Shri. Ramtanay Shantaram Gorhe and anr.	..	Respondents

Mr.M.S. Mohite for the applicant in Cri. Appln No. 3472 of 2000.

Mr.Mihir Desai, Sr. Advocate a/w Mr. S.B. Shetye for respondent no. 2.

Mr. V.S. Talkute for the petitioner in W.P. No. 4721 of 2003.

Mr. Vinamra Kopariha for respondent no. 1 in W.P. No. 4721 of 2003.

Mrs. M.M. Deshmukh, A.P.P. For State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : 18th NOVEMBER, 2015**

P.C. :-

Heard the learned counsel for the respective parties and the learned A.P.P. for the State.

2. Criminal Application No. 3472 of 2000 is filed for quashing and setting aside the proceedings of Criminal Case No. 255 of 1999 pending on the file of Judicial Magistrate First Class, Court No.

III, Nashik. Writ petition No. 4721 of 2003 is filed for quashing and setting aside judgment and order 18th June, 2003 passed by the Presiding Officer of Pune/Shivaji University College Tribunal in Appeal No. 26 of 1999. Criminal Case No. 255 of 1999 arises out of the registration of C.R. No. 276 of 1998 with Sarkarwada Police Station, Nashik for the offences punishable under section 419, 420, 468, 469, 471 read with 34 of Indian Penal Code. By the impugned order in the above writ petition, the respondent no. 1 was directed to be reinstated with full back wages. During the pendency of the aforesaid proceedings, the parties settled their dispute amicably in the following terms :

“1. The Petitioners agree and undertake to this Hon'ble Court that the charge sheet dated 13.10.1998 issued to the Respondent no. 1 and so also dismissal order dated 16.9.1999 shall stand withdrawn. The Respondent no.1 shall stand notionally reinstated on 16.9.1999 and shall stand retried w.e.f. 30th June, 2004.

2. Th Petitioners agree and undertake that the Respondent No. 1 shall be treated being in continuous service for all practical purposes including the payment of wages ad all other consequential benefits till the respondent no.1 has attained the age of superannuation i.e. on 6th June, 2004.

3. Both the parties agree and accept that the Respondent no.1 is entitled to an amount of Rs.20,29,779 (Twenty Lakh Twenty Nine Thousand Seven Hundred Seventy Nine Only) towards arrears upto 16-09-1999 and wages from the date of termination viz. 16-09-1999 till the date of superannuation i.e. 30-06-2004. The Petitioner hereby tenders a Demand Draft/Pay Order of Rs.15,71,999/- (Fifteen Lakh Seventy One Thousand Nine Hundred and Ninety Nine Only) after deducting Income Tax of Rs.4,37,480/- (Four Lakh Thirty Seven Thousand Four Hundred and Eighty Only), Rs.12,000/- as Professional Tax and Rs.8,300/-(Eight Thousand Three Hundred Only) in cash and the same is paid in Court. The Petitioner shall issue TDS certificate for the said amount. The said payment is made as full and final settlement.

4. The Petitioner has already deposited an amount of P.F. Contribution with Provident Fund authority and the Respondent no. 1 is at liberty to claim the said amount from the said Authority. The Petitioner undertakes to cooperate with the Respondent no. 1. To enable him to withdraw the said amount and complete the formalities within 4 weeks from the date these Consent terms are taken on record.

5. The Respondent no., 1 is entitled to an amount

of Gratuity and Leave Encashment from the Respondent No. 3 and the Respondent No.1 is at liberty to claim the said amount from the Respondent No. 3. The Petitioner undertakes to cooperate with the Respondent no.1 to enable him to withdraw the said amount and complete the formalities within 4 weeks from the date these Consent terms are taken on record.

6. The Respondent No.1 shall sign the pension papers for submitting the pension papers by the petitioners to the concerned authorities within 4 weeks from the date these Consent Terms are taken on record.

7. The Petitioners agrees and undertakes to forward the pension papers of the respondent no.1 to the State Government and/or Competent Authority within 4 weeks from the date on which the Respondent No. 1 submits pension papers to the Petitioner.

8. The Respondent No.1 is filing an affidavit in support of the Petitioner in Criminal Application No. 3472 of 2000 for quashing the Criminal proceedings initiated upon the Complaint filed by the Respondent No.1 being Criminal Case No. C.C. No. 255 of 1999 pending on the file of the Ld. JMFC No. III, Nashik on the basis of CR No.276 of 1998. The Respondent No.1 hereby has no objection for allowing the aforesaid Criminal application.

9. The Respondent No.1 further agrees and undertakes to withdraw Civil Suit No.500 of 1998(New Number Regular Civil Suit No. 75 of 2003) filed by him against the Petitioners which is pending before the Civil Court at Nashik within four weeks from today.

10. The Respondent No. 1 shall have no objection when original documents, such as original cash book register, original minutes book, etc, which are in the custody of the Civil Court at Nahik in the aforesaid Suit or in the Criminal Case No. C.C. 255 of 1999 pending before the Ld. JMFC No. III, Nashik or with the Police Inspector, Sarkarwada Police Station, Gangapur Road, Nashik, are returned to the Petitioner.

11. Both the parties hereby withdraw all allegations against each other and further undertake that neither party will make any allegations against each other in respect of the facts, circumstances and the proceedings settled herein.

12. The Petitioner Society is at liberty to claim the amount of salary paid by the Petitioner from the Respondent No. 3 by submitting bills and the Respondent No. 3 shall decide the same as expeditiously as possible and in accordance with law.

13. In view of the Affidavit filed by the original

Complainant, and in view of the present Consent Terms, the aforesaid Civil Writ Petition is disposed of and aforesaid Criminal Application may be allowed in terms of Prayer Clause (a).”

3. The consent terms are taken on record and marked “X” for identification. The consent terms are signed by Dr. Moreshwar Gosavi on behalf of the petitioner in Civil Writ Petition No. 4721 of 2003 and as applicant in the above Criminal Application, Mr. Ramtanay Shantaram Gorhe, respondent no. 1 in the above writ petition and respondent no. 2 in the above Criminal Application respectively along with their respective lawyers. Dr. Moreshwar Gosavi has also placed on record the resolution of the petitioner in the above writ petition authorizing him to sign the consent terms.

4. The respondent no. 2 in the above Criminal Application has also filed an affidavit dated 27th October, 2015. In view of the consent terms in para 4 of the said affidavit, he has given consent to quash and set aside the said criminal proceedings. The respondent no.2 in Criminal Application Mr. Gorhe is present in the Court. On a specific query, he has stated that he has no objection to quash and set aside the criminal proceedings which is subject matter of the above criminal application. In the above circumstances, the above criminal application as well as writ

petition is disposed of in terms of the consent terms. Consequently Criminal Case No. 255 of 1999 pending on the file of judicial Magistrate, First Class, Court No. III, Nashik is quashed. The impugned order of the College Tribunal stands modified accordingly.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)