

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3915 OF 2013

Pratik Kumar Prafulla Kumar

.. Petitioner

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. U.P. Warunjikar for the petitioner

Mr. A.H. Ponda a/w Mr. Mayur Shetty, Mr. Dikshat Mehra
i/b Rajani Associates for respondent no.2

Mrs. M.M. Deshmukh, APP for respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 22nd JUNE, 2015.

P.C.

1. Heard Mr. Warunjikar, learned Counsel for the Petitioner, Mr. Phonda, learned Counsel for the Respondent and Mrs. Deshmukh, learned APP

2. This petition is filed for quashing of the FIR No.246 of 2013, registered by Hinjewadi Police Station, Pune for the offence

punishable under Sections 467, 468, 471 and 420 of the the Indian Penal Code, 1860. The quashing of the FIR is sought on the basis of the compromise deed, copy of which is annexed at Exh.A to the petition at page no.45.

3. Mr. Warunjikar, learned Counsel for the Petitioner invite our attention to terms 1 and 2 of the settlement / compromise deed, which reads as follows.

“1. Prateek Kumar shall transfer and convey all the shareholdings of the said company to PACL or its nominees and / or assign as may be suggested or instructed by PACL;

2. PACL shall withdraw / not pursue the said Criminal Case being FIR No.246/13 registered with P.S. Hinjewadi Police Station, Pune Circle, Pune u/s 420, 467, 468 and 471 IPC against Prateek Kumar and shall file affidavits, applications and consents to enable Prateek Kumar to get the said Criminal case quashed / withdrawn in the Court of law and for this purpose PACL shall co-operate and assist Prateek Kumar in all possible manner to get the Criminal case quashed / withdrawn”.

4. He also placed on record, copy of the share transfer form and submitted that term no.1 is substantially complied with.

5. Mr. Ponda, learned Counsel for the respondent on the contrary dispute the statement made by the learned Counsel Mr. Warunjikar and asserted that the term is not fully complied with. He relies upon the averment made by the Petitioner in paragraph 12, page 318 of the rejoinder filed by the Petitioner, which reads as under.

“12. So far as the averments made in paragraph No.9 and the averments about the transfer of the shareholding from Sunshine Infracity Pvt. Ltd. are concerned, I say that I have already submitted an application in pursuant to Section 108(1)(A) of the Companies Act, 1956 to the Registrar of Companies, Maharashtra at Mumbai on 18.11.2013. Sandeep Kumar has put his signature as a director of Synergyone Infrastructure Pvt. Ltd. and transferred 80% of shareholding to Sparsh Hotels Pvt. Ltd., which is a sister concerned company of respondent no.2”.

6. The Petitioner in his rejoinder referred above has made a statement that he has already submitted an application under Section 108 (1)(a) of the Companies Act to the Registrar of Companies on 18.11.2013, under which it is proposed to transfer 80% of the shareholding to Sparsh Hotels Pvt. Ltd., which is the sister concern of the Respondent no.2 company. This averment in

paragrpah 12 made by the Petitioner itself shows that the Petitioner has not transferred the shareholding of Synergyone Infarstructure Pvt. Ltd. to the PACL or its nominee for assignment as referred in the said settlement / compromise deed. Learned Counsel for respondent no.2 submits that there is a dispute about 80% and 20% of the shareholding and that application under Section 9 of the Arbitration and Conciliation Act is already pending before the Court.

7. We are not impressed by the submissions made by the learned Counsel for the petitioner. The facts remains that the compromise terms, referred above are not fully complied with and hence, proceedings cannot be quashed on the basis of the said compromise deed.

8. That apart, learned APP Mrs. Deshmukh, on instructions, states that chargesheet is already filed before the concerned Magistrate.

9. In the above circumstances, we are not inclined to interfere in the petition and the same is dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)