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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL WRIT PETITION NO.2190 OF 2016

Mohammad Mukim Hod Safir Khan ...Petitioner
vs.
State of Maharashtra & Ors. ...Respondents

Mr.M.S.Adenwala for the Petitioner
Ms M.H.Mhatre, APP for the Respondent No.1

CORAM :A.S.OKA AND
 A.A.SAYED,JJ.
DATE : AUGUST 26, 2016

P.C.

1 Heard the learned counsel for the petitioner and the learned AGP for State. At the instance of the petitioner, First Information Report being C.R.No.260 of 2013 was registered at Ghatkopar Police Station, Mumbai for the offences punishable under sections 406, 408 read with section 34 of the Indian Penal Code. The petitioner is relying upon the consent terms a copy of which is annexed to the petition. The consent terms have been signed by the petitioner and one of the accused. In the FIR, the allegation made by the petitioner was as regards misappropriation of computer servers and other parts. The details of the compromise arrived at between the petitioner and the accused have been set out in the petition. Perusal of the statement of the petitioner on the basis of which the FIR was registered shows that the dispute was about the use of computer servers. The allegation is that servers were allowed to be used by the accused on rental basis but the same were directly transferred to

other company.

2 The dispute appears to be of a civil nature and now there is a complete settlement of the dispute.

3 It is true that the petitioner himself set the criminal law in motion and made police to investigate. The petitioner on his own has paid a sum of Rs.25,000/- to the Police Welfare Fund. Memorandum issued to that effect dated 26th August 2016 is produced by the learned counsel for the petitioner.

4 In the circumstances, this is a fit case where power under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 can be exercised.

5 Accordingly, we pass the following order:

(I) Rule is made absolute in terms of prayer clause (a) which reads thus:

“(a) This Hon'ble Court be pleased to quash the C.R.No.260/2013 u/sec. 406, 408, 34 IPC pending before 49th Metropolitan Magistrate Court, Vikhroli, Mumbai vide Court Case No.469/PW/2016 on such terms and conditions as deem fit and proper.”

(ii) All concerned to act upon an
authenticated copy of this order.

(A.A.SAYED,J.)

(A.S.OKA,J.)