

Rane

* 1/6 * WP-419-2017 (SR. 901)
Thursday, 14.9.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 419 OF 2017

Gobind Rajaldas JadhvaniPetitioner

V/s.

The State of Maharashtra
and Ors.Respondents

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Mr. Surabh Butala i/by. Mr. Harshad Bhadbhade,
Advocate for the petitioner.

Mrs. A.S. Pai, Additional Public Prosecutor for
respondent no.1, State.

Mr. Rajiv Chavan, Senior Advocate a/w. Ms. Priyanka
Chavan i/by. Mr. Y.B. Dandekar,
Advocate for respondents no.2 and 3.

CORAM :- R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :- 14TH SEPTEMBER, 2017.

P.C. :-

1. At the outset, the Learned Counsel for the petitioner seeks amendment of prayer clause (a) by deleting the portion “now pending before Court of the the learned Counsel appearing for the. Addl. Chief Metropolitan Magistrate, 47th Court, Esplanade”. Leave granted. Amendment to be carried out forthwith.

2. The above writ petition has been filed for quashing of the FIR being C.R. No. 81 of 2016 dated 19th September, 2016 presently lodged with Economic Offences Wing (EOW), Unit-IX of the Mumbai Police. The above FIR is the outcome of the alleged violation of the Trade Marks Act by the petitioner herein and the gravamen of the allegations against the petitioner is that, behind the back of the other Directors, the petitioner had got the intellectual property rights in respect of “Safal Group” registered in his individual name. It is not necessary to further dilate on the facts, having regard to

the fact that the parties have amicably resolved their disputes. The parties were before this Court in Bail Application No. 2159 of 2016 wherein the parties filed consent terms evidencing the settlement arrived at between the petitioner accused and the respondent no.2. In the context of the relief sought in the present petition, Clause-10 of the consent terms is relevant and is reproduced hereunder :

“10. In view of the aforesaid confirmations and undertakings of the Applicant and in addition to the aforesaid flats, the Complainant hereby unconditionally withdraw all the allegations made in the F.I.R. dated 14/09/2016. The Complainant has also agreed to give his unconditional consent for quashing and setting aside C.R. No. 81 of 2016 against the Applicant herein. The Complainant hereby gives his No objection for extension/grant of bail to the Applicant. The Complainant agrees and undertakes to remain present in the Hon'ble Court in person and/or through his advocate and file affidavit/undertaking/Application to that effect, as and when necessary. Without prejudice to the aforesaid, the Complainant being esteemed businessman travels for business and hence may not be readily available to appear in the Hon'ble Court for

giving consent. Hence, these presents may be treated as his written consent or no objection for extension/grant of bail to the Applicant and also for quashing and setting aside C.R. No. 81 of 2016 against the Applicant herein.”

3. The First Informant has also filed his Affidavit bearing today's date i.e. 14th September, 2017 sworn before Shri. Bidhu Panicker, the Notary Public, Government of India. In the context of the present petition, para-6 of the said Affidavit is material and is reproduced hereunder :-

“6. I say that I respondent no.2 herein hereby wish to withdraw all the allegations made in the FIR/C.R. no. 81 of 2016 and gives consent for quashing of FIR/C.R. no.81 of 2016 dated 14/09/2016.”

2. The First Informant, Varun Vinod Asrani is also personally present in the Court. He is identified by the Advocate on record, Mr. Dandekar. He is further identified by his Aadhar Card bearing No. 6121 1368 2401. When put in the box and queried, he states that the Affidavit tendered today by the Learned Senior Counsel is

his and that he has understood the contents and that he has no objection for quashing of the FIR and that he has filed the Affidavit out of his own free will and volition. Hence, the consent terms filed in the bail application coupled with the Affidavit filed by the First Informant bearing today's date, disclose that the parties have amicably settled their dispute and therefore the First Informant does not desire to proceed with the FIR.

3. Having regard to the judgments of the Apex Court in the case of **Gian Singh v/s. State of Punjab, reported in (2012) 10 SCC 303** and **Narinder Singh V/s. State of Punjab, reported in (2014) 6 SCC 466**, no useful purpose would be served by keeping the proceedings pending. Hence, there is now no impediment in quashing the proceedings, the above petition is accordingly allowed and made absolute in terms of prayer clause (a). The petition stands disposed of.

4. The petitioner and the respondent no.2 to pay costs

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of Rs.25,000/- each to be deposited with the Tata Memorial Hospital, Parel, Mumbai within 8 weeks from date, to obtain receipt and file the same in the Registry.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)