

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3093 OF 2017

Sanjay Satish Kumar Sinha and Ors.Petitioners
V/s.
State of Maharashtra and anr.Respondents

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Mr. Subhash Jha i/by. Law Global Associates, Advocate
for the petitioners.

Mrs. M.M. Deshmukh, Additional Public Prosecutor, for
the State, respondent no.1.

Mr. Himanshu Luthra, Advocate for respondent no.2.

Mr. Shivaji Prabhakar Kalme, respondent no.2 present in
person.

CORAM :- **R.M. SAVANT &**
SANDEEP K. SHINDE, JJ.
DATE :- **16TH AUGUST, 2017.**

P.C. :-

1. The above writ petition has been filed for
quashing of the FIR being No. 180 of 2016 registered with

Chandan Nagar Police Station, Pune which is being investigated by the E.O.W. Pune for the offences punishable under Sections 406, 409, 420 read with Section 34 Indian Penal Code. The said FIR was arising out of the business transaction between the petitioner and the first informant i.e. respondent no.3 herein. The petitioner is engaged in the business of providing logistical services for which it takes vehicles on hire. Respondent no.3 is the supplier of the vehicles to the petitioner. The dispute has arisen out of the allegation of respondent no.2 in respect of the alleged non-payment by the petitioner. The parties have entered into a Memorandum of Understanding (MOU)/Deed of Compromise dated 4th February, 2017. Clauses-4(a), 4(b) and 4(g) are relevant and the same are reproduced for the sake of ready reference herein under :-

“4a. That the second party has paid a consideration of a sum of Rs.1,00,000/- (Rupees One Lakh Only) through the demand draft no.042365 of bank drawn on HDFC dated

06.02.2016 in favour of Shivaji Kalme, proprietor of Fast Track Travel Solutions on 07.02.2017 (copy of the DD enclosed), and has issued the Post Date Cheque No.132322 dated 01.08.2017 drawn on Indian Overseas Bank for Rs.10,00,000/- (Rupees Ten Lakhs Only), 10,00,000/- (Rupees Ten Lakhs Only), as surety basis, and this cheque is a condition precedent.

b. The First Party undertakes to facilitate the pending receivable to be remitted into Leeway Logistic Limited Account from the Daimler (Mercedes Benz Research and Development India Private Limited-SEZ Unit). The First Party undertakes collect the cheque from Daimler and, thereafter, the same shall be furnished to Leeway Logistic Limited. After receiving the receivables from Daimler into the second party's account and as and when the payment is received, the second party, forthwith undertakes to make payment of Rs.6,00,000/- will return the Post Date Cheque of Rs.10,00,000/- and the same shall be replaced by a fresh PDC dated 01.08.2016, of the remaining settlement amount.

g. The second party here to undertake to reimburse a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the first party in the event of refusal/Rejection/denial of the payment by the Daimler undertakes to make payment within two weeks from such date of rejection. In case of refusal by Daimler, the Second Party undertakes to pay the full settlement amount on or before 01.08.2017. In the event of nonpayment of the settlement amount after the prescribed time outlined in this MOU, the First Party reserves the right to press all the cases pending before any or all the authorities along with the 138 cases for the cheques prescribed by Leeway Logistic Limited.”

2. The said MOU therefore discloses, the amicable settlement arrived at between the petitioner and respondent no.2 i.e. the First informant. Respondent no.2, Shivaji Prabhakar Kalme is personally present in the Court. He is identified by the Learned Counsel appearing for respondent no.2, as also, he is identified by his Aadhar Card bearing No. 9706 4086 0806. When put

in the box and queried, he states that the contents of the MOU have been explained to him by his Learned Counsel and that the terms and conditions of the said MOU are acceptable to him. He identifies the signature on the MOU as his. In the light of the above and in view of the judgments of the Apex Court in **Gian Singh V/s. State of Punjab, reported in (2012) 10 SCC page 303** and in the case of **Narinder Singh Vs. State of Punjab, reported in (2014) 6 SCC page 466**. No useful purpose would be served if the proceedings are kept pending, the writ petition is accordingly allowed and made absolute in terms of prayer clause (a). However, it is clarified that the instant settlement would not come in the way of the other parties who have any claim against the petitioner.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)