

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.290 OF 2018

Color Copi Limited & Ors. Petitioners
Vs.
The State of Maharashtra & Anr. Respondents

Mr. Vijendra Mishra i/by M/s B and V Associates for the
Petitioners.

Mr. Deepak Thakare, Govt. Pleader a/w Mrs. A.S. Pai,
Additional P.P. for Respondent no.1- State.

Mr. Sameer Reshamwala i/by India Law for Respondent no.2.

ALONGWITH
CRIMINAL APPLICATION NO.105 OF 2018

Pankaj Gulzarilal Gupta Applicant
Vs.
The State of Maharashtra & Ors. Respondents

Mr. Apoorv Singh for the Applicant.
Mr. Deepak Thakare, Govt. Pleader a/w Mrs. A.S. Pai, Additional
P.P. for Respondent no.1- State.
Mr. Sameer Reshamwala i/by M/s India Law for Respondent
no.2.

Coram : R.M. Savant AND
Sarang V. Kotwal, JJ
Date : 13th March, 2018

P.C.

1 The above writ petitions have been filed for quashing of the F.I.R. being No. 27 of 2014 registered with the Economic Offence Wing, Unit I, Mumbai for the offences punishable under Sections 420, 465, 467, 468, 471 read with 120-B of the Indian Penal Code. The first informant is the respondent no.2 i.e. the Tata Capital Financial Services Limited, which is a non-banking financial institution. The cause of filing the F.I.R. was the default committed by the borrower one Color Copi Limited, which is the petitioner no.1 in the above Writ Petition No. 290 of 2018 in complying with their obligation to repay the financial assistance which was taken from Tata Capital Financial Services Limited. The applicant in Criminal Application No.105 of 2018 is also arraigned as an accused alongwith the directors of the said Color Copi Limited. It is not necessary to dilate further on facts in view of the fact that the parties have amicably settled the dispute, as a result of which, the said Color Copi Limited has

discharged its obligation in the matter of repayment of the financial assistance taken from the respondent no.2- Tata Capital Financial Services Limited.

2 On behalf of the first informant i.e. respondent no.2, an affidavit dated 13th March, 2018, sworn in this Court has been filed in each of the above petitions. In so far as the Criminal Application No.105 of 2018 is concerned, paragraph 9 of the said affidavit is material and is reproduced hereinunder:

“9. In the aforesaid circumstances and more particularly after receipt of the onetime settlement amount by the Respondent no.2 from Sanjeev Gupta and Bhadarnath Gupta, Directors of Color Copi Ltd., Respondent no.2 is not desirous of pursuing the said complaint against the petitioners and therefore this Hon'ble Court may pass such and necessary orders as may be required in the circumstances of the present case.”

3 In so far as Writ Petition No.290 of 2018 is concerned, paragraph 9 of the said affidavit is *pari-materia*, which is also reproduced hereinunder for the sake of ready reference :

“9. In the aforesaid circumstances and more particularly after receipt of the onetime settlement amount by the Respondent no.2 from the Petitioners, Respondent no.2 is not desirous of pursuing the said complaint against the Petitioners and therefore this Hon'ble Court may pass such and necessary orders as may be required in the circumstances of the present case.”

4 The said affidavit has been filed by the affiant, Pradeep Kharat pursuant to the power of attorney dated 23rd February 2013 executed by Shri. Kamlesh Parekh, Head-Legal and Compliance, Tata Capital Financial Services Limited, having his office at Peninsula Business Park, Ganpatrao Kadam Marg, Lower Parel, Mumbai. The affiant Pradeep Kharat is personally present in Court. He is identified by the learned counsel, Mr. Sameer Reshamwala of India Law. He is also identified by his PAN card bearing No. AVHPK9606N. When put in the box and queried, he accepts the fact that the 'No Dues Certificate' has been issued to the said Color Copi Limited. He further states that the contents of the affidavit are acceptable to his Company and that the said affidavit has been signed by him pursuant to

the authorisation given to him by the respondent no.2. In view of the affidavits filed on behalf of the respondent no.2 in both the petitions as also having regard to the statements made by Pradeep Kharat, the representative of the respondent no.2, who is personally present in court, the same leads to the conclusion that the parties have settled their dispute amicably as a result of which the entire dues towards the respondent no.2 have been cleared by the borrower. In view thereof, no useful purpose would be served in continuing with the F.I.R. as lodged by the respondent no.2. A useful reference could be made to the judgments of the Apex Court in the cases of Gian Singh Vs. State of Punjab & Anr. reported in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065, which would also lead to the same conclusion. There is therefore no impediment in allowing the above petitions. The Writ Petition and the Criminal Application are allowed and made absolute in terms of prayer clause (a) of both the Writ Petition and the Criminal Application.

5 In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the matter, the Petitioners to deposit costs of Rs.25,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

(Sarang V. Kotwal, J.)

(R.M. Savant, J.)