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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2124 OF 2017

Nandlal Dulichand Gupta	...Petitioner
Versus	
Shashikant Suryakant Gujar and Anr.	...Respondents

Mr.Syed Ejaz Abbas Naqvi, for the Petitioner.

Mr.A.B.Tajane, for the Respondent No.1.

Mr.H.J.Dedhia, A.P.P for the Respondent No.2-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th JANUARY, 2018

P.C. :

1. Heard learned Counsel for the parties.

2. By this petition, the petitioner has impugned the order dated 31st March, 2017, passed by the learned Additional Sessions Judge, Pune, in Criminal Revision Application No.451 of 2014, by which the Respondent No.1's (original complainant) Revision Application was allowed and the order dated 10th April, 2014, passed by the learned Judicial

Magistrate First Class, Khadki, Pune, below Exhibit-7, in R.C.C.No.208/2012, discharging the petitioner was quashed and set aside.

3. Learned Counsel for the petitioner submitted that the learned Sessions Judge clearly erred in law by setting aside the order dated 10th April, 2014, passed by the learned Judicial Magistrate First Class, Khadki, Pune, below Exhibit-7, in R.C.C.No.208/2012, by which the learned Magistrate was pleased to discharge the petitioner, under Section 239 of Code of Criminal Procedure, from the offences punishable under Sections 418, 420, 465, 467, 468, 471 r/w 34, 120B of the Indian Penal Code. He submitted that the learned Magistrate had rightly considered the documents on record as well as the handwriting expert's report and accordingly discharged the petitioner. He submitted that taking the prosecution case as it stands, no offences as alleged are disclosed as against the petitioner. He submitted that it is not alleged by the respondent No.1-complainant that it is the petitioner-accused, who had forged his and 2 others signature on the consent letter. He further submitted that the handwriting expert had not given any definite opinion, with regard to the same and as such reliance could not be placed on the said report of the handwriting expert.

4. Learned Counsel for the Respondent No.1-Complainant opposed the petition. He submitted that no interference was warranted in the impugned order dated 31st March, 2017, passed by the Revisional Court, quashing and setting aside the order of the trial Court discharging the petitioner from the said case. He submitted that taking the prosecution case as it stands, it cannot be said that the allegations as against the petitioner-accused are groundless. He submitted that the petitioner was the beneficiary of the entire transaction and that the consent letter was clearly a forged and fabricated document. He submitted that the handwriting expert's opinion clearly shows that the signatures on the questioned documents Nos.A-1, A-2 and A-4 were not of Sandeep Gujar, Ratnakant Gujar and Anagha Jagtap. He further submitted that the material on record as well as the opinion of the handwriting expert, *prima facie* shows, that the consent letter does not bear the signatures of either Sandeep Gujar, Ratnakant Gujar and Anagha Jagtap and hence the only inference that can be drawn, on the basis of the documents and correspondence on record, is that it was the petitioner who had forged the signatures, he being the sole beneficiary. According to the learned counsel, by the said consent letter, no objection was allegedly given by Sandeep Gujar, Ratnakant Gujar and Anagha Jagtap to allot the land

adjacent to their plot i.e. S.P. 109 in favour of the petitioner (accused) Nandlal Gupta. He submitted that considering the evidence on record, the petitioner will have to face a trial and as such cannot be discharged at this stage.

5. Perused the papers as well the impugned order dated 31st March, 2017. The respondent no.1 – complainant filed a private complaint before the learned Judicial Magistrate First Class, Khadki, Pune, which was numbered as R.C.C.No.199/2011. In the said complaint, the respondent no.1-complainant had sought investigation under Section 156(3) of the Code of Criminal Procedure. On receipt of the said complaint, police registered MECR No.11 of 2011, as against the petitioner, alleging offences punishable under Sections 418, 420, 465, 467, 468 r/w 34 of the Indian Penal Code. After investigation, the police submitted a ‘C’ Summary Report. The learned Magistrate rejected the said ‘C’ Summary Report and directed further investigation in the said case. It is pertinent to note, that the said order was challenged by the petitioner in this Court, however, the said application was not entertained. After investigation, the Khadki Police filed

a charge-sheet in the said case, as against the petitioner.

6. Thereafter, the petitioner herein, filed an application (Exhibit – 7) under Section 239 Cr.PC and sought his discharge from the said case. The learned Magistrate after hearing the parties was pleased to allow the said discharge application and was pleased to discharge the petitioner from the offences punishable under Sections 418, 420, 465, 467, 468, 471, 120B r/w 34 of the Indian Penal Code.

7. Being aggrieved by the said order discharging the petitioner from the aforesaid offences, the respondent no.1-complainant filed Criminal Revision Application No.451 of 2014, in the Court of Sessions, Pune. The learned Additional Sessions Judge, Pune, after hearing the parties was pleased to allow the said Revision and accordingly, set aside the order dated 10th April, 2014, passed by the learned Judicial Magistrate First Class, Khadki, Pune, below Exh.7 in R.C.C.No. 208/2012. The learned Judge accordingly also restored R.C.C.No.208/2012 at the original number and stage and directed the Trial Court to proceed with the trial. The petitioner herein, being aggrieved by the aforesaid order passed by the learned

Additional Sessions Judge has approached this Court by way of the present petition.

8. It is the prosecution case, that a plot of land admeasuring 1,050.00 square meters comprising of plot no.SP-109(Part) in Pimpri Industrial Area was allotted by the MIDC to Sandeep Gujar, R.S.Gujar and Shashikant S. Gujar, Partners of M/s.Sharda Enterprises; Shri Nandlal D. Gupta, Proprietor of M/s.Yash Enterprise (petitioner herein) and Smt.Anagha Sunil Jagtap, Proprietor of M/s.Shree Gajanan Engineering. The said land was allotted by the MIDC on 17th March, 2006 and sanction was also accorded. The said land was allotted to the aforesaid persons for setting up industrial units for trading service centres, subject to payment of a premium of Rs.42,44,700/-, on certain conditions. On 16th April, 2008, the MIDC sent a letter to Sandeep Gujar, R.S.Gujar and Shashikant S. Gujar, Partners of M/s.Sharda Enterprises; Shri Nandlal D. Gupta, (petitioner), Proprietor of M/s.Yash Enterprise and Smt.Anagha Sunil Jagtap, Proprietor of M/s.Shree Gajanan Engineering informing them, that after the physical verification of the land was done, it was found that there was an additional land of 1661.0 sq. meters. Accordingly, MIDC requested

the said persons to pay Rs.24,70,000/- being the balance amount, by way of Demand Draft. Pursuant thereto, a consent letter was allegedly sent by Sandeep Gujar, R.S.Gujar, Shashikant S. Gujar, and Anagha Sunil Jagtap to the Regional Officer of MIDC on 16th July, 2008. By the alleged letter, consent was given by the said persons i.e. Sandeep Gujar, R.S.Gujar, Shashikant S. Gujar, and Anagha Sunil Jagtap, for allotting the additional land adjacent to their plot No. SP/109 in Pimpri Industrial Area to Mr. Nandlal Dulichand Gupta (Petitioner) of M/s.Yash Enterprises. A forwarding letter signed by the petitioner was submitted alongwith the alleged consent letter given by Sandeep Gujar, R.S.Gujar, Shashikant S. Gujar, and Anagha Sunil Jagtap. It is this alleged 'consent letter', which is the subject matter of dispute between the parties. According to Sandeep Gujar, R.S.Gujar, Shashikant S. Gujar, and Anagha Sunil Jagtap, the signatures appearing on the said consent letter are not theirs, as no such consent was given by them, to the Regional Officer of MIDC. According to them, their signatures were forged on the said letter. Admittedly, the petitioner has paid Rs.24 lakhs odd for the additional area to the MIDC directly. During investigation, the investigating officer had taken the specimen signatures of the respondent No.1-complainant, his two partners

and Anagha Sunil Jagtap and the police also seized the disputed document i.e. the consent letter dated 16th July, 2008 and other documents. All the documents were sent to the handwriting expert with a specific direction whether the signatures on A-1 and admitted signatures at B-1 tallies with each other. Further other queries were also made. The handwriting expert opined that the signatures on the documents in question i.e. A-1, A-2 and A-4 were not written by the writer i.e Sandeep Gujar, Ratnakant Gujar, and Anagha Jagtap. He also opined that he was not able to give definite opinion on the questioned documents A-3, A-5 with corresponding signatures for want of sufficient identifying characteristics. By the said consent letter allegedly signed by Sandeep Gujar, Ratnakant Gujar, Shashikant Gujar and Anagha Jagtap, a no objection was given by them in favour of the petitioner for allotting the land adjacent to their plot no.S.P.109. By the said consent letter, the beneficiary of the additional land was the petitioner. The petitioner is the person who had submitted a letter dated 16th July, 2008 under his signature, alongwith the alleged consent letter. It is the petitioner who had deposited the additional amount of Rs.67 lakhs odd to the MIDC, for the said additional land.

9. Considering the *prima facie* material on record, it cannot be said that the allegations against the petitioner are groundless. The learned Judge has rightly after considering the entire material on record, passed the impugned order dated 31st March, 2017. No interference is warranted in the impugned order in writ jurisdiction.

10. Accordingly, the petition is dismissed. All contentions of all the parties are kept open.

11. It is made clear, that the learned Judge shall decide the case on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.