

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL WRIT PETITION NO.2435 OF 2014**

Mr. Sanjay Ghewari ... Petitioner

Versus

Shri. Niket Vilas Patil & Anr. ... Respondents

Mr. G.K. Jadhav for the Petitioner.

Respondent No.1 present.

Mrs. M.H. Mhatre, Addl. P. P. for State.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**

DATE :- 17TH APRIL, 2018

P. C. :-

1 The above Writ Petition has been filed for quashing of the F.I.R. being C.R.No.1216 of 2013 registered with the Chembur Police Station, for the offences punishable under Sections 51 and 63 of the Copy Right Act. The cause for filing the F.I.R. was the alleged use by the Petitioner's Company of the Software of one Wilcom International Private Limited without it's authorisation. It seems that acting on the said information, a raid was conducted by the Respondent no.1 who is concerned with one Anti Piracy Enforcement Services Limited with the

help of Police and in the said raid, the ES- Software belonging to the said Wilcom International Private Limited was seized.

2 It is not necessary to dilate further on facts as the first informant i.e. the Respondent No.1 has filed Affidavit dated 24th June, 2014 affirmed in this Court. In the context of the relief sought in the present petition paragraphs 4 and 5 of the said Affidavit are material and are reproduced hereunder.

“4. *I further state that I being the authorised person of ANTI PIRACY ENFORCEMENT SERVICES Pvt. Ltd. filing this Affidavit on oath on behalf of my said company and giving our consent for withdrawal of F.I.R. lodged by us against the Applicant. I am annexing along with this Affidavit the certified copy of Power of Attorney of ANTI PIRACY ENFORCEMENT SERVICES Pvt. Ltd., Authority and direction letters of WILCOM Company.*

5 *I further state that the withdrawal of all allegations leveled by me in the said F.I.R. being C.R. No.1216/2013 against the Applicant above-named is without any pressure or compulsion of either of the parties.”*

3 The Respondent No.1 Niket Vilas Patil is personally present in Court. He is identified by his Adhar Card bearing No.7246

8257 4534. The learned counsel, Mr. G.K. Jadhav also identifies him in view of the fact that he was also the respondent in Criminal Writ Petition No.4430 of 2013, which was also filed for quashing of F.I.R. wherein the facts were identical. When put in the box and queried, he states that he has read and understood the contents of the said affidavit and that he has signed the affidavit of his own free will and volition and that he does not want to proceed with the F.I.R. in question in view of the out of Court settlement between the parties.

4 The Petitioner, Mr. Sanjay Ghewari is also personally present in Court. He is identified by the learned Counsel, Mr. Jadhav. He is also identified by his Adhar Card bearing No. 2781 8512 0358. He accepts the factum of the settlement being arrived at between the parties as a result of which the respondent no.1 does not desire to proceed with the F.I.R. in question.

5 Having regard 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, no useful purpose would be served

in continuing with the F.I.R. The above petition is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a).

6 In the facts and circumstances of the case, the Petitioner and the respondent no.1 to deposit costs of Rs.10,000/- each 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.)