

Amk

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

WRIT PETITION NO. 4835 OF 2014

- | | | | |
|----|---------------------------------------|---|---------------|
| 1. | Mr. Gerard de Nazelle |] | |
| | Age- 53 years, Occ.- Head-Technology |] | |
| | COE Reliance Corporate Park, |] | |
| | Residing at Madhuban Apartment, 1001, |] | |
| | Pali Hill, Bandra (W), |] | |
| | Mumbai 400 093. |] | .. Petitioner |

Versus

- | | | | |
|----|---|---|----------------|
| 1. | State of Maharashtra |] | |
| | Through Public Prosecutor, |] | |
| | At the instance of EOW |] | |
| | |] | |
| 2. | Mr. Subodh Santosh Maskara, |] | |
| | Adult, Indian Inhabitant, |] | |
| | Presently residing at 72, |] | |
| | Madhuli Apartment, 7 th Floor, |] | |
| | Dr. Annie Besant Road, Worli, |] | |
| | Mumbai 400 018. |] | .. Respondents |

Mr. Amit Desai, Sr. Counsel a/w. Mr. Gopal Shenoy, Mr. Lokesh Zade, Mr. Amey Nabar i/b Mr. Lokesh Zade for the Petitioner.
Mr. Pranav Badheka i/b Mr. Prashant Pawar for Respondent No.2.

CORAM : A. A. SAYED & V. L. ACHLIYA, JJ.

DATE : 7th JULY, 2018

ORDER (Per V. L. Achliya, J.)

1. Petitioner has filed this petition seeking following substantive reliefs:

“(a) that this Hon’ble Court be pleased to issue any appropriate writ, direction or order under Article 226 & 227 of the Constitution of India, and thereby quashing the FIR C. R. No. 11 of 2014 registered with EOW, Unit III, Mumbai for the offences punishable u/s. 420, 406, 408,

467, 468, 34 r/w. 120(B) of I.P.C. (Initially it was registered as C. R. No. 6 of 2014 registered with Marine Drive Police Station, Mumbai for offences punishable under sections 40, 408, 420, 120(B) r/w. 34 of I.P.C.) qua the Petitioner;

(b) That this Hon'ble Court be pleased to issue a writ or any direction or order to quash the lookout notice issued by Respondent no.1 against the Petitioner;"

2. Learned Counsel for the petitioner and respondent submit that in view of settlement arrived at between Polygenta Technologies Ltd. (petitioner in WP No. 4147 of 2014) and respondent No.2 at whose instance the subject FIR was registered and proceeding was quashed against all other accused the subject FIR deserves to be quashed against the petitioner.

3. It is submitted that the petitioner was made accused being the Director of the Polygenta Technologies Ltd. In terms of settlement arrived at between the parties, the Consent Terms were filed in Civil Suit No. 285 of 2014 which was pending before this Court and vide order dated 21.05.2018 passed by this Court (Coram : S. J. Kathawala, J.) the said Suit disposed of in terms of Consent Terms. It is further submitted that the Consent Terms along with Minutes of Order and the Affidavit of respondent No.2-complainant also filed in WP Nos. 4147 of 2014, 1064 of 2015 and Criminal Application No. 996 of 2014 to quash of Criminal Case No. 4700421/PW/2015 pending on the file of Additional Chief Metropolitan Magistrate, 47th Esplanade Court, Mumbai arising out of C. R. No. 6 of 2014 registered with Marine Drive Police Station, Mumbai and subsequently registered as C. R. No.11 of 2014 on transfer of investigation to EOW, Unit-III, C.B.C.I.D., Mumbai and vide order dated 13.06.2018 passed by this Court the said petitions/application were allowed and

subject FIR and criminal proceeding has been quashed.

4. It is submitted that the C. R. No. 6 of 2014 was registered at the instance of respondent No.2. The petitioner is one of the accused named in the said FIR. The charge-sheet was filed against all accused other than petitioner. It is further submitted that pursuant to order dated 13.06.2018, WP Nos.4147 of 2014, 1064 of 2015 and Criminal Application No. 996 of 2014 were allowed and the subject FIR and consequent criminal proceedings filed against the petitioners in these cases came to be quashed. It is further submitted that FIR/C. R. No. 200 of 2018 lodged against respondent No.2 also came to be quashed vide order dated 13.06.2018 passed in WP 2043 of 2018 in view of settlement arrived at between the parties. In this background, learned Counsel submit that the petition filed by the petitioner also deserves to be allowed and subject FIR be quashed.

5. The respondent No.2 has filed affidavit. He has recorded his no objection to quash the subject FIR against the petitioner.

6. On due consideration of submissions advanced in the light of overall facts of the case and the settlement arrived at between the parties and the order dated 13.06.2018 passed in WP Nos. 4147 of 2014, 1064 of 2015 and Criminal Application No. 996 of 2014 the proceeding is quashed against the all accused other than the petitioner, the subject FIR deserves to be quashed against the petitioner.

7. We are, therefore, inclined to allow the petition for the reasons recorded in the order dated 13.06.2018 passed in WP Nos. 4147 of 2014, 1064 of 2015 and Criminal Application No. 996 of 2014. In the result, we pass the following order:

ORDER

- (i) The Writ Petition is allowed in terms of prayer clauses (a) and (b).
- (ii) Surety bond of the accused stands discharged. If the amount of Rs.2 lakhs found to be deposited as cash by the petitioner, then same shall be paid to the petitioner.
- (iii) The Writ Petition stands disposed of in above terms.
- (iv) In view of the disposal of petition, all pending applications stand disposed of in terms of order passed in the petition.

[V. L. ACHLIYA, J.]

[A. A. SAYED, J.]