

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4768 OF 2015**

**Mr. Ramnarayan Singh
Vs.
State of Maharashtra & Ors**

**..Petitioner

..Respondents**

**Mr. Chavva N. S. Rama Kumar for the Petitioner
Mr. Pranav Badheka a/w Ms Prachi Dhanani i/b Veritar Legal for the
Respondent No.4
Mrs. S. V. Sonawane APP for the Respondent State**

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 26th APRIL, 2018**

P.C.

1 At the outset, the following correction is required to be carried out in the order passed on 18-4-2018. In the second paragraph in line 4 the figure Rs.3,00,000/- to be substituted by Rs.33,00,000/-. The order to stand corrected accordingly.

2 Today when the matter is called out, the Learned Counsel for the Petitioner Mr. C. N. Kumar points out that as recorded in the order dated 18-4-2018 the sum of Rs.33,00,000/- has been refunded to the Petitioner along with interest making the sum of Rs.49,05,996/- which is after deducting the TDS on the interest. The above Petition has been filed for seeking direction to transfer the investigation from the Respondent No.3 Economic Offence Wing to any other independent Investigation Agency. The said relief was founded on the averments which have been made in the above Petition. It is required to be noted that the Petitioner herein who is the first informant has registered the

FIR being No.491 of 2014 for offences punishable under Sections 420, 406 and 34 of Indian Penal Code, 1860. The FIR is the fall out of the transaction which the Petitioner had entered into with the Respondent No.4 in respect of the purchase of a flat in one of the projects of the Respondent No.4. It is the case of the Petitioner that the Accused who have been named in the FIR have also induced and cheated the Petitioner in respect of which the Petitioner has alleged the commission of the offences under Section 406 and 420 read with Section 34 of the Indian Penal Code, 1860.

3 Be that as it may, as indicated above the Respondent No.4 herein had on the last occasion approached this Court by filing an intervention application which was allowed by this Court. A statement also came to be made on behalf of the Respondent No.4 that the Petitioner would be refunded the amount of Rs.33,00,000/- which he had paid for the flat in question to the Respondent No.4 along with simple interest. As is now disclosed by the statement made by the Learned Counsel for the Petitioner Mr. C. N. Kumar that the amount of Rs. 33,00,000/- along with interest totalling to Rs.49,05,996/- has been received by the Petitioner and therefore in so far as the Respondent No.4 Cow Town Infotech Services Pvt.Ltd., and its representative Mr. Surendra Nair, the Petitioner has no grievance against the Respondent No.4.

4 The Petitioner Mr. Ramnarayan Singh is personally present in Court. He is identified by the Learned Counsel Mr. C. N. Kumar. He is also

identified by his Adhar Card bearing No.792037378192. When put in the box and queried he states that he has received a Demand Draft for the said amount of Rs.49,05,996/- which he expects would be encashed and in view thereof he does not have any grievance against the Respondent No.4. In view of the said statement made by the Petitioner when put in the box and queried which in a way confirms the statement made by the Learned Counsel Mr. C. N. Kumar.

5 We are of the view that in the peculiar facts of the present case wherein the Petitioner is an Ex-Railway employee who had invested his savings with the Respondent No.4 with the hope of having a flat in Mumbai. Though we would be quashing the FIR limited to the Respondent No.4 herein we deem it appropriate to do so in the facts of the instant case. Though we would be transcending the relief sought in the above Writ Petition by quashing the FIR, by consent of the Learned Counsel for the parties as also with the consent of the Petitioner i.e. the first informant, we deem it appropriate to do so. The FIR in question qua the Respondent No.4 would accordingly stand quashed and set aside. The above Petition would accordingly stand disposed of.

6 We however, clarify that the FIR against the other Accused would continue.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]