

Anand

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

WRIT PETITION NO. 348 OF 2019

Nimish Bhishma Thakore

.Petitioner

Vs.

The State of Maharashtra & ors.

.Respondents

Ms Y. Sharma, Advocate, for the Petitioner

Dr. F. R. Shaikh, APP, for the Respondent No. 1 – State

Ms T. R. Shetty, Advocate, for the Respondent No. 2

Mr. Rajesh Shah, Respondent No. 3-in-person present

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.**

DATE : 08.03.2019

P.C.

. Petitioner – an Accused and Original Complainant through his son and legal heir are jointly requesting for quashing of FIR and Criminal Case No. 1/PW/2007 on the file of learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai pointing out that controversy is amicably settled. Earlier there were three accused persons but one of them has been discharged. The other accused is Respondent No. 3 in present matter and he has no objection.

2. The Civil dispute between parties in Commercial Suit No. 28 of 2005 has been settled in terms of Consent Terms as per orders of learned Single Judge of this Court dated 11.12.2018 in Commercial Suit No. 28 of 2005.

3. The alleged subject matter of crime namely 50,000 Share Certificates are already in custody of Original Complainant because of orders dated 17.08.2009 passed by learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai on an Application under Section 457 Cr. P. C..

4. Petitioner is present with his Advocate. Respondent No. 2 is also present with his Advocate and both jointly re-iterate the request. Respondent No. 3 is present and is identified by respective counsel appearing for Petitioner and Respondent No. 2. Similarly, Petitioner and Respondent No. 2 also identified. Respondent No. 3 – Rajesh Shah also orally in Court gives his no objection for quashing of proceedings.

5. APP is present for Respondent No. 1.
6. Accordingly accepting joint request, we make rule absolute in terms of prayer clause (a) after costs are paid.
7. However, as Respondent No. 1 has investigated into the offences from 2003 onwards, we direct parties to pay amount of Rs. 2,00,000/- as costs to Police Welfare Fund of Respondent No. 1.
8. Costs be paid within four weeks from today.
9. If costs are deposited, rule shall become absolute in terms of prayer clause (a) and thereafter, Share Certificates shall stand released from attachment under Section 102 of the Code of Criminal Procedure.

(REVATI MOHITE DERE, J.)

(B. P. DHARMADHIKARI, J.)