

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

CRIMINAL WRIT PETITION NO.4275 OF 2016

Digant Laxmikant Kapadia	..Petitioner
V/s.	
The State of Maharashtra & Anr.	.. Respondents

Mr.A.P. Mundargi, Senior Advocate a/w Mr.N.S. Mundargi i/b
Mr.Hrishikesh Mundargi for the Petitioner.

Mr.K.V. Saste, APP for the Respondent-State.

Mrs.S.V. Bharucha for Respondent No.2.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 15th JULY 2019

P.C.

1. The petitioner is a Director of the M/s. Billimoria and Company Limited. He has approached this Court under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code for quashing and setting aside the FIR bearing C.R. No.183 of 2016 registered with Worli Police Station. The said FIR is registered at the instance of the Mr. Ramesh Nimish Kavi, Inspector of the Regional Provident Fund Office for failure on the part of the petitioner in non-depositing of the contribution amount for the period between November 2014 to December 2015. The C.R. is

registered for an offence punishable under Sections 406 and 409 of the Indian Penal Code.

2. Mr. Mundargi, learned Senior Counsel having taken instructions from his client makes a statement that within a period of 20 days from the date of registration of FIR i.e. in the month of June 2016, the amount towards the Provident Fund contribution upto March 2016 is deposited with the respondent No.2-Office of Provident Fund along with penalty and interest. This fact is verified by the learned counsel for the respondent No.2 and Mrs. Bharucha submits that the petitioner, as a matter of fact, has deposited the said amount.

3. Mr. Mundargi, learned Senior Counsel having taken instructions from his client submits that the contribution of Provident Fund could not be deposited on time due to the financial problem of the petitioner. He also makes a statement that henceforth the said contribution would be remitted to the respondent No.2 on the due date. The statement is accepted as undertaking to this Court.

4. In the light of above in our considered opinion the

continuation of the said proceedings in the subject FIR could not serve any purpose since the amount along with the interest is already deposited by the petitioner.

5. In the light of the above the proceedings of the subject FIR is quashed and set aside. The petition is allowed in terms of prayer clause (a) of the petition subject to costs of Rs.10,000/- to be paid to the **Yashodhan Charitable Trust, Satara** (having Registration No.1895/Satara, Maharashtra, Account No.60245873355 IFSC Code MAHB0000305), an institution that takes care of mentally retarded and elderly people in the downtrodden society. The petitioner shall pay the said costs and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the writ petition shall stand dismissed automatically without further reference to the Court and the order quashing the criminal proceedings shall be treated as *non-est*.

6. Subject to above, the writ petition shall stand disposed of.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)