

Vidya Amin.

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

CRIMINAL WRIT PETITION NO. 4907 OF 2017

Prakash Bhurmal Jain & Anr. ... Petitioners
VS.
The State of Maharashtra & Anr. ... Respondents

Mr. Samsheer Garud a/w. Santosh Avhad i/b. M/s. Jayakar and Partners, Advocate for the petitioners.
Mr. A.R. Patil, APP for the respondent/State.
Mr. Tanvir Abdul Hamid Shaikh, Advocate for respondent no. 2.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 13th February, 2019**

P.C. :

Rule. Rule made returnable forthwith. By consent, Writ Petition is heard finally and decided at the stage of admission.

2. In this Criminal Writ Petition, the order dated 21st July, 2017 passed by the learned Additional Chief Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai and further order dated 27th October, 2017 passed by the Additional Sessions Judge, Greater Mumbai in Civil Revision Application No. 728 of 2017 so also the order dated 16th January, 2014 passed by the learned Additional Sessions Judge, Greater Bombay in Civil Revision Application No. 257 of 2013 and order of discharge dated 13th December, 2012

passed by the learned Additional Chief Metropolitan Magistrate, Ballard Pier, Mumbai are to be set aside and quashed.

3. The respondent no. 2/original complainant has filed the case of cheating for which the process under section 420 r/w. 34 of Indian Penal Code was issued. It was a money transaction. Now the learned counsel for the respondent no. 2/complainant and the learned counsel for the petitioners/original accused nos. 2 and 3 submit that they are filing the consent terms wherein they have mentioned that the entire outstanding amount of Rs.17,90,670/- is treated to be satisfied on payment of amount of Rs.15,25,000/- which is paid by Pay Order. Both the learned counsel submit that the authorized representative of the respondent no. 2/complainant-company and petitioners/accused nos. 2 and 3 are present. The learned counsel for the petitioners/accused nos. 2 and 3 submit that in fact all the accused have settled the amount and thus, the order of issuance of process and the entire proceedings against all the accused are to be quashed and set aside.

4. The learned counsel for the respondent no. 2/complainant confirms this submissions on instructions from the authorized representative of the complainant-company, who is present in the

Court. The learned counsel for the complainant-company has produced the resolution dated 22nd January, 2019 authorizing Mr. Satejchandra J. Talpade, Manager Admin. & Principal Officer of the company authorizing him to settle the matter.

5. The resolution is taken on record and marked as Exhibit 1. The consent terms is taken on record and marked as Exhibit 2. The consent terms are signed by the petitioners and the authorized representative of the complainant-company along with their respective counsel. The statement made in the consent terms and the undertaking given in the consent terms is accepted.

6. In view of the consent terms, Writ Petition is made absolute in terms of prayer clauses (a) and (b). The entire proceedings of C.C. No. 31/SW/2007 pending before the learned Additional Chief Metropolitan Magistrate, 38th Court, Ballard Pier is hereby quashed and set aside against all the accused.

7. Writ Petition is disposed of.

8. Parties to act upon the authenticated copy of this order.

(MRIDULA BHATKAR, J.)