

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1259 OF 2021

Ashish Shah

...Petitioner

vs.

The State of Maharashtra
& Anr.

...Respondents

Mr.Chintan Y. Shah for petitioner.

Mr. Deepak Thakre, PP a/w. Mr. S.R. Shinde, APP for respondent No.1-State.

Mr.Navroz H. Seervai, Senior Advocate a/w. Mr.Ankit Lohia, Mr. Varun Nathani, Mr. Ranjit Shetty and Mr. Rahul Dev i/b Argus Partners for respondent No.2.

Mr.Ashish Shah-Petitioner present through VC.

Mr.Vishal Shah-Respondent No.2-present through VC.

**CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.**

**DATE : JUNE 10, 2021
(THROUGH VIDEO CONFERENCE)**

P.C.:

1. This petition is preferred to quash the F.I.R. bearing No. 872 of 2020, dated 24th October 2020, registered with Andheri Police Station, Mumbai for the offence punishable under section 408 of the Indian Penal Code, 1860.

2. The substance of the petition is that the petitioner/complainant and respondent No.2/the first informant have amicably resolved the dispute and consent terms have been executed between the parties. In view of the resolution of the dispute between the parties, no fruitful purpose will be served by continuing the instant prosecution.

Hence, the present petition.

3. We have heard Mr.Chintan Shah, the learned counsel for the petitioner and Mr.Navroz Seervai, the learned Senior Counsel for the respondent No.2. A copy of the consent terms is annexed to the petition.

4. The petitioner and respondent No.2 are present before the Court. They admit the contents of the consent terms and agree to abide by its terms. Clause 19 of the consent terms reads as under :

“19 The Plaintiff states that with respect to the aforesaid Criminal Complaint against the Defendant Nos.2 to 4, the Plaintiff shall forthwith take steps to withdraw the same within a period of 5 weeks from the execution of the Consent Terms. The Plaintiff undertakes to participate in all or any legal proceedings that are necessary to immediately withdraw or compound or quash the aforesaid FIR No. 872/2020 and all or any other FIR FIR/Criminal Complaint/NC against the Defendant/s herein. The Plaintiff specifically undertakes and confirms to co-operate in any applications, affidavits and petitions to be filed in any court of law or police station or office of the Government to quash or set-aside or compound or withdraw the aforesaid FIR No.872/2020 and all or any other FIR FIR/Criminal Complaint/NC against the Defendant/s herein.”

5. The Respondent No.2-First informant has also sworn an affidavit. Paragraph 2 of the affidavit reads as under :

“2. It is true that Petitioner and myself being Respondent no.2 have amicably decided to settle the matter. The understanding arrived at between the

parties and the rights and obligations have been documented in Consent Terms dated 6th November 2020 (“Consent Terms”) filed in Commercial IP Suit No. 5701 of 2020 before this Hon’ble Court. In view of the averments made in the captioned Writ Petition and the fact that the parties agree that the Consent Terms clauses are valid and binding, I have no objection if the F.I.R. No.872 of 2020 registered with Andheri Police Station is quashed in its entirety.”

6. The first informant Mr.Vishal Shah is present before the Court.

Upon interaction, Mr.Vishal Shah submitted that he has decided to resolve the dispute on his own volition and there is no duress. He specifically submitted that he does not want to further prosecute the instant prosecution.

7. From the perusal of the FIR, it becomes evident that the offence has its genesis in the commercial transaction between the parties. The dispute arose as the relations between the parties turned astray. It seems that the wrong complained of is primarily of private or personal in nature and the parties have resolved the entire dispute. In the aforesaid backdrop, we are of the view that continuation of the prosecution would not serve any fruitful purpose. The ends of justice would be advanced by quashing the proceeding.

8. Resultantly, in view of the settlement of the dispute between the parties, the continuation of the prosecution may amount to a

futile exercise and also an abuse of the process of law. Thus, we are inclined to allow the petition. Hence, the following order :

O R D E R

The Petition stands allowed in terms of prayer clause (a).

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)