

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3040 OF 2021

Kartik Rajendra Ojha

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Mithilesh Mishra a/w. Pradeep Dube for Petitioner.

Ms. S. D. Shinde, APP for State/Respondent No.1.

Ms. Dhinika Jain for Respondent No.2.

CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.

DATE : 9 DECEMBER 2021

P.C. :

. Heard the learned counsel for the parties. Taken up for disposal.

2. The Petitioner has filed this Petition for the following reliefs:

“19(i) This Hon’ble Court be pleased to quash and set aside the F.I.R. bearing C.R.No. 152/2018 dated 15/05/2018 with L.T. Marg Police Station, Mumbai for offences punishable u/s. 420 of I.P.C. and 66(d) of Information Technology Act and be pleased quash and set

aside proceedings in Case No.538/PW/2018 pending before the Ld. Addl. Chief Metropolitan Magistrate, 28th Court, Elplanade, Mumbai, in the interest of justice;”

3. The ground for quashing of the F.I.R. is that the Respondent No.2 has given consent for quashing of F.I.R. The Respondent No.2 has appeared in person and has tendered a notarized affidavit. The Affidavit is taken on record. We had requested Ms. Dhinika Jain, learned Advocate to assist the Respondent No.2 to which the learned counsel had agreed and Ms. Dhinika Jain, learned counsel is appointed to represent the Respondent No.2. The learned counsel for the Respondent No.2 states that, in the interaction, the Respondent No.2 has informed that she wants to settle the dispute and she has no objection if the F.I.R. is quashed.

4. The Petitioner is the son of the Respondent No.2. The Respondent No.2 has filed an F.I.R. that during the period from 16 November 2017 to 12 January 2018, the Respondent No.2 found that there was 36 transactions in her bank account through mobile application and amount of Rs.1,56,000/- was withdrawn. She also filed a complaint that similar transactions were carried out in respect of her son's account for Rs.25,000/-.

5. The learned APP states that, after investigation was over

it has transpired that the amount has been withdrawn unauthorisedly by using mobile application by the Complainant herself that is the Petitioner. Thus, in this context, the Respondent No.2-mother has given consent. Apart from mother-Respondent No.2 giving consent, the learned counsel for the Petitioner, on instructions from the Petitioner who is present in the court, states that the Petitioner has shown remorse for what he has done and assures that he will not repeat such acts in future.

6. Considering these circumstances, we are of the opinion that case is made out for exercise of extraordinary jurisdiction.

7. The Writ Petition is allowed in terms of prayer clause 19(i) as above.

8. The learned appointed Advocate will be entitled to the fees as per rules. A copy of this order be sent to the Registry for further compliance in that regard.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)