

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

CRIMINAL WRIT PETITION NO. 3352 OF 2021

Gaurav Deepak Chhabria

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Anmol Bartaria for the Petitioner.

Mr. K. V. Saste, APP for State/Respondent No.1.

Mr. Piyush Toshnival for Respondent No.2.

Mr. Prasann Pamecha, Complainant, present in the court.

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

DATE : 28 OCTOBER 2021

P.C. :

. Rule. Rule is made returnable forthwith by consent of the parties.

2. This Petition is preferred for quashing of the F.I.R. registered at L. T. Marg Police station, vide C.R.No.151 of 2019, under sections 341, 427, 448, 420, 380, 211 read with 34 of the Indian Penal Code.

3. This petition is filed for quashing by consent as the Petitioner and the Respondent No.2 have amicably settled their issues.

4. Heard Shri. Anmol Bartaria, the learned counsel for the Petitioner, Shri. Saste, the learned APP for the State - Respondent No.1 and Shri. Piyush Toshnival, the learned counsel for the Respondent No.2.

5. The FIR is lodged by one Prasanna Pamecha on 06/05/2019. He has stated that he was in the business of selling electric appliances and articles. He wanted to start his business by taking a shop at Lohar Chawl with his friend Gautam Kothari. He met one Shahid who was an Estate Agent. He showed him shop No.19 admeasuring 200 sq.ft. The Informant was told that the shop was owned by the Petitioner. The Informant and his partner met the Petitioner. The Petitioner told the Informant that shop itself was taken by the Petitioner on rent and he again could not give the shop on rent. Instead, he suggested to the informant and his partner that they should put the name of the Petitioner as one of the partners. It was suggested that the informant could have 40% share, Gautam Kothari could have 50% share and the Petitioner could have 10% share. The agreement was entered into. It was decided that the informant and his partner was to pay Rs. 1,08,00,000/- as deposit to the Petitioner. The documents were executed in February 2019. The informant, Gautam Kothari and the Petitioner put their signatures on these documents. Co-accused Rashid Khan put his signature as a witness on these documents. The informant and Gautam Kothari transferred Rs. 82,50,000/- through RTGS in the bank account of the

Petitioner. Above that, they paid Rs. 2 lakhs in cash to the Petitioner. The Petitioner gave possession of that shop to the informant. The informant thereafter started renovation work in the shop.

6. On 12/03/2019, the Petitioner told the informant that he had changed his mind and he wanted to run the shop himself. The informant told the Petitioner that he should repay the amount given to him and also the amount of Rs. 7 lakhs which was spent by the informant in renovating that shop. The Petitioner transferred Rs.3 lakhs in the account of Gautam Kothari. Thereafter he did not make any payment. He did not return the informant's and his partner's amount. On 30/03/2019, the Petitioner and co-accused Rashid Khan put their own locks forcibly on the shop. The Petitioner made some complaint to the police and therefore the informant was called to the police station. The informant realized that he and his partners were cheated to the amount of Rs.84,50,000/- and therefore this F.I.R. is lodged.

7. Today, our attention was invited to the affidavit filed by the Respondent No.2/complainant in the present Petition. In paragraph No.2 of the said affidavit he has stated that the Respondent No.2 and the Petitioner have arrived at settlement and that he did not want to prosecute the Petitioner. In the same affidavit it was mentioned that the Petitioner had no objection if the Respondent No.2 i.e. the Complainant withdrew the amount of Rs.24,45,000/-

deposited in the Registry of this court during the hearing of Petitioner's Anticipatory Bail Application No. 1611 of 2019. In Paragraph No.7 the Respondent No.2 has stated that, he was withdrawing all his allegations and charges against the Petitioner which he had made in C.R.No.151 of 2019 dated 06 May 2019 registered with L. T. Marg Police station.

8. During the course of arguments, the learned counsel for the Respondent No.2 identified Respondent No.2 present before the court and the learned counsel also endorsed the statement made in the affidavit in reply. We have also recorded the statement made by the Petitioner that he has no objection if the amount of Rs.24,45,000/- deposited by the Petitioner before this Court is withdrawn by the Respondent No.2.

9. Considering this statement, we find that the F.I.R. as a whole can be quashed not only against the Petitioner but also against the other co-accused Rashid Khan who is not before the Court.

10. We have also taken into account the guidelines laid down in the case of *Gian Singh Vs. State of Punjab and another reported in (2012) 10 Supreme Court Cases 303*. The dispute between the parties is strictly trivial dispute and nobody from the society in general was affected. We are also informed that the Petitioner was already arrested in connection with this case. In this view of the matter, this Writ Petition can be allowed.

11. Hence, the following order:

: O R D E R :

- i. The Petition is allowed in terms of prayer clause (a).
- ii. The Respondent No.2 is permitted to withdraw Rs.24,45,000/- which the Petitioner has deposited in this Court in connection with his Anticipatory Bail Application No.1611 of 2019.
- iii. It is clarified that the F.I.R. which is the subject matter of this Petition and consequent proceedings are quashed against the Petitioner, as well as, against his co-accused Rashid Khudad Khan.
- iv. Consequently, the Petitioner shall be released forthwith in connection with the present case, if not required in any other case.
- v. Rule is made absolute in aforesaid terms.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)