

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

CRIMINAL WRIT PETITION NO. 66 OF 2022

Firoz Usman Tinwala ... Petitioner
Versus
1. State of Maharashtra
2. Mr. Upendra Dongershi Shah ... Respondents

Mr. Samir Pradhan for the Petitioner.

Mr. Mohit Dalvi for the Respondent No.2.

Mrs. P. P. Shinde, APP for the Respondent No.1-State.

Mr. Pawar, PSI, Matunga Police Station, Mumbai.

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 30th NOVEMBER, 2022

P.C. :-

. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the petition is taken up for final disposal. Learned APP waives notice on behalf of the respondent no.1-State and Mr.Mohit Dalvi, learned counsel waives notice on behalf of the respondent no.2.

Corrected (in bold) vide order dated 16th December, 2022.

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR, registered vide C.R. No. 98 of 2016 with the Matunga Police Station, Mumbai, for the alleged offences punishable under Sections 380, 465, 468, 471, 511, 506, 182 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent no.2 (original complainant), at the relevant time, he and the petitioner were partners. According to the respondent no.2, the petitioner misused the cheque of his wife and signed on the same and presented the said cheque with the concerned bank. As the funds were insufficient, the said cheque came to be dishonoured. The respondent no.2 on learning of the same, lodged the aforesaid FIR alleging the aforesaid offences, as against the petitioner.

5. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Metropolitan Magistrate, 30th Court, at Kurla, Mumbai, being case no. 547/PW/2017.

6. During the pendency of the aforesaid proceeding, the parties amicably settled their dispute and resolved their misunderstanding. The respondent no.2 has filed his consent affidavit, which is at page 28 of the petition. In the said affidavit, the respondent no.2 has stated that he has no objection to the quashing of the aforesaid FIR/complaint/proceeding. The respondent no.2's wife, in whose name the cheque was and whose cheque was allegedly forged, has also filed a consent affidavit, which is at page 24 of the petition. In the said affidavit, the respondent no.2's wife - Mrs. Pragna Upendra Shah, has also given her no objection to the quashing of the aforesaid FIR/complaint/ proceeding. She has stated that the dispute has been resolved between her and her husband on the one hand and the petitioner on the other. Since, respondent no.2 is not present, we asked the concerned Officer of the concerned

Police Station to verify whether she had filed the affidavit. Learned APP on instructions states that the respondent no.2's wife - Mrs. Pragna has confirmed filing of the said affidavit and that she has no objection to the quashing of the aforesaid FIR/complaint/proceeding.

7. Considering the nature of allegations, the dispute between the parties and the affidavits of the respondent no.2 and his wife, there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR registered vide C.R. No. 98 of 2016 with the Matunga Police Station, Mumbai, and consequently, the proceeding pending before the Metropolitan Magistrate, 30th Court, at Kurla, Mumbai, being case no. 547/PW/2017, are quashed and set aside.

9. Rule is made absolute in the aforesaid terms and the petition is disposed of accordingly.

10. The petitioner to deposit a cost of Rs.25,000/- with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, within three weeks from today.

11. Stand over to **4th January, 2023**, for recording compliance of the said order of depositing cost.

12. Learned counsel for the respondent no.2 to file his *Vakalatnama*, if not filed, on behalf of the respondent no.2, within two weeks of the uploading of this order.

13. All concerned to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

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