IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 143 OF 2022

Norton Pereira ….Petitioner
Versus
State of Maharashtra and ors. ….Respondents

Mr. Kamtesh Ghumre along with Mr.Vikrant Singh Negi, Mr.Pratik M.Thakkar i/b. DSK Legal, advocates for the petitioner.
Ms. Sangeeta D. Shinde, APP for respondent No.1.
Mr. Omkar Mulekar, advocate for respondent Nos.2 and 3.

CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.

DATE : 9th MARCH, 2022.

P.C. :

1. Heard learned counsel and learned APP appearing for the respective parties.

2. The petitioner is before this Court with principal prayer (A), whereby quashment of FIR No.20 of 2021 dated 20th February, 2021 registered at Koregaon Park Police Station, Pune, is sought for. By prayer (B), the petitioner prayed for similar prayer in respect of FIR No.122 of 2021 dated 2nd August, 2021, registered at Koregaon Park Police Station, Pune. Copies of respective FIRs are placed on record at Exhibit – 'C', page 52 and Exhibit – 'D', page 79 respectively. The sum

and substance of the report is that respondent No.2 was engaged in hospitality business running a hotel. Due to certain financial constraints and difficulties, respondent No.2 decided to handover the said hotel for running hotel business to the petitioner. The petitioner agreed to pay all necessary dues including liability of the Government taxes as well as the salaries of the employees. It is stated in the report that though it was agreed by the petitioner to make payment of the dues, the said assurance was not complied with by the petitioner. It was further submitted in the report that apart from this losses, respondent No.2 also suffered further losses as the petitioner earned some amount by providing the hotel services on online basis. It is submitted before this Court that post lodgement of the FIRs, better sense prevailed over the parties and the parties decided to give an end to the dispute by settling terms of consent between them. Respective affidavits are filed on behalf of respondent Nos.2 and 3, which are placed on record at pages 198 and 202 of the petition. Our attention was also invited to the orders dated 22nd November, 2021, passed by the Division Bench of this Court in criminal writ petition No.2245 of 2021 with connected matters and criminal writ petition No.4393 of 2021. The copies of the said orders are placed on record at pages 44 and 48 respectively. There are in respect of FIR Nos. 20 of 2021 and 122 of 2021 respectively. The petitioners in those petitions before this Court were the co-accused. Learned counsel for the petitioner as well has respondents placed heavy reliance on the orders of the Division Bench to submit that the present petitioner is co-accused and is similarly circumstanced with the petitioners in criminal writ petition No.2245 of 2021 with connected matters and criminal writ petition No.4393 of 2021.

3. Considering the material placed on record as well as considering the orders of the Division Bench of this Court dated 22nd November, 2021, we see no reason to take a different view than the view adopted by the Division Bench in the said orders except little clarification. As we have referred earlier that the FIRs lodged against petitioner makes a mention of certain non-payment of Government taxes, we make it clear that the order of this Court quashing the FIRs would not come in the way of State Government, in case, there are certain amount of taxes due and payable by the petitioner or the respondents. The State Government is at liberty to take appropriate steps as per the provisions of law to recover the amounts of taxes due and payable by the parties and parties cannot claim a rider of the order of this Court for recovery of the taxes.

4. Accordingly, the petition is allowed in terms of prayer clauses (A) and (B) subject to petitioner and respondent No.2 making payment of Rs.50,000/- each towards costs. The parties shall deposit costs with Mumbai Police Welfare Fund, A/C.465010100008693, AXIS Bank, IFS

Code-UTI 0000465 and thereafter produce the receipt thereof on the file of this petition within a period of four weeks from today, failing which, the **writ petition shall stand dismissed automatically** without further reference to the Court and order quashing the FIRs shall be treated as *non-est*.

5. The writ petition stands disposed of in the above terms.

(S. M. MODAK, J.) **(PRASANNA B. VARALE, J.)**