

Uday S. Jagtap

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

CRIMINAL WRIT PETITION NO. 546 OF 2022

Dipakkumar Dashratlal Patel

.. Petitioner

Vs.

1. The State of Maharashtra

2. Avinash Bhanudas Avhad

.. Respondents

.....

Mr. Satyajeet Dighe for the petitioner

Mr. K.V. Saste, APP for the respondent – State

Mr. Sandip D. Shinde i/b Ergo Juris for the respondent no.2

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATED : 7th DECEMBER, 2022.

ORDER : (Per Prithviraj K. Chavan, J.)

1. Heard learned Counsel for the petitioner, learned APP appearing for the respondent no.1 – State and the learned Counsel appearing for the respondent no.2.

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. Shinde, learned Counsel waives notice on behalf of the respondent

no.2 – first informant.

3. The petitioner herein has invoked inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) along with Article 226 of the Constitution of India, *inter alia*, praying for quashing the proceeding bearing Summary Criminal Case No.2885 of 2015 pending before the learned JMFC-3, Nashik pursuant to an First Information Report (for short “FIR”) registered with the Bhadrakali Police Station bearing C.R. No. I-85 of 2015 on 06.03.2015 for the alleged offences punishable under Sections 43, 66, 66-D of the Information and Technology Act, 2000 lodged by the respondent no.2 on the premise that the parties have amicably resolved their dispute.

4. The prosecution story goes like this.

5. Complainant - Avinash Bhanudas Avhad (for short “respondent no.2.”) is a proprietor of a firm namely, “Universal Sales Corporation” which is engaged in a business of supply and sale of construction material in Nashik District as well as in certain part of the State of Gujarat. In order to expand his business, the respondent

no.2 had started work at Ahmedabad and Surat in the State of Gujarat in the year 2005-06.

6. The petitioner came to be appointed as a Salesman at the Ahmedabad branch, upon his application for the said post. The petitioner however, voluntarily resigned from the employment of the respondent no.2 firm and had started working somewhere else. After some time, he again re-approached the respondent no.2 firm for a job and accordingly, he came to be reappointed in the year 2012 to a post of Product Manager at Ahmedabad office of the firm. The petitioner was looking after the work at Nashik as well as at Ahmedabad. As per the terms and conditions of the service, the petitioner was provided with secret information of the company, which included price of the product, future business policies, technical information of the products as well as list of customers of the company. This was pursuant to gaining confidence of the respondent no.2. The petitioner was bestowed with the post of Product Manager, Marketing Sales, Marketing Executive as well as Regional Manager of Gujarat area.

7. The company had provided the petitioner a google e-mail

account so as to conduct all the transactions relating to the company from the said account. The password of the said account was also provided by the company and it was made obligatory upon the petitioner and the employees to use the said e-mail account only for the purpose of business of the company. There was restriction not to part with the said information and e-mail to any third party, outside the company.

8. It has been specifically alleged by the respondent no.2 that upon his resignation from the company, the petitioner was relieved on 29.08.2014 from its employment and at that time, the petitioner had handed over the company's laptop, Tata Photon drive, Company Identity Card, Card Reader, Client Visiting Card, Mobile Sim Card and accounts.

9. Despite handing over of the aforesaid articles, it is alleged that the petitioner continued using e-mail address and password provided to him by the company and misused the same by revealing trade secret's of the company and other information to the respondent no.2's competitor namely Vins Industries (Tejas Patel). The petitioner, thus, with an intention to make unlawful gains and profits

out of the said information belonging to the respondent no.2, deliberately provided trade information to the competitors. The said act of the petitioner, according to the respondent no.2, amounts to cheating and criminal breach of trust. The petitioner had also hacked e-mail address of the company and changed its password after his resignation. The same was provided to the competitor.

10. As such, the respondent no.2 was constrained to lodge an FIR against the petitioner as above.

11. Upon investigation and completion of the same, a charge-sheet came to be filed bearing Summary Criminal Case No. 2885 of 2015 in the Court of JMFC-3, Nashik.

12. The parties have now approached this Court with a prayer to quash and set aside the proceeding pending before the learned JMFC-3, Nashik in light of the fact that they have amicably settled their dispute, which is purely private in nature.

13. Learned Counsel for the petitioner and the respondents *inter alia* submit that further prosecution of the criminal case would be an

exercise in futility and, therefore, to secure ends of justice, they want to give a quietus to the entire dispute. In support, an affidavit dated 07.12.2022 of the respondent no.2 is placed on record along with attested photostat copy of the Aadhar Card of the respondent no.2. The said affidavit is taken on record. Learned APP as well as the learned Counsel for the respondent no.2 have vouched the identity of the respondent no.2. The affidavit is in consonance with the averments in the petition.

14. We have ascertained the truthfulness of the recitals of the affidavit from the respondent no.2. He submits that he has no objection to quash and set aside the proceeding pending before the Magistrate's Court.

15. Having considered the nature of allegations and the dispute as well as the fact that parties have arrived at an amicable settlement with the mutual consent and also in view of the judgment of the Apex Court in the case of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab**², we do not find any difficulty in allowing the petition.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

16. The petition is accordingly allowed. The Summary Criminal Case No. 2885 of 2015 pending before the learned JMFC-3, Dist. Nashik is quashed and set aside.

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

18. All the parties to act upon the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.