

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 843 OF 2021**

M/s. Sarda Agro Oils Limited	Petitioner
Versus	
The State of Maharashtra and ors.	Respondents

Mr. Rahul Mishra, advocate for the petitioner.
Mr. K. V. Saste, APP for the State.
Mr. Shubham Kamble, advocate for respondent No.4.
Mr. Yash Momaya along with Mr. Rishir Daulat and Mr. Mohanish Patkar
i/b. TRD Associates, advocates for respondent No.7.

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

DATE : 17th MARCH, 2022.

P.C. :

1. Heard learned counsel appearing for the respective parties at length.

2. In the above matter, an order was passed by the Division Bench of this Court on 3rd February, 2022, to which one of us (Justice Prasanna B. Varale) was a party. As reference was made to the writ petition filed in this Court, the Registry was directed to place on record, a copy of the order passed in writ petition No. 251 of 2019. Today, learned counsel appearing for respondents, made available the copy of the

judgment/order dated 10th March, 2021, passed by the Division Bench in writ petition No.251 of 2019 tagged with writ petition No.890 of 2021. In both these petitions, quashment of the FIR lodged against each other was sought for.

3. The present petition is filed by M/s. Sarda Agro Oils Limited through its Director and Authorized Representative – Mr. Jagdish Sarda. Perusal of the copy of the judgment/order dated 10th March, 2021 shows that Mr. Jagdish Sarda was the petitioner in criminal writ petition No.890 of 2021. Now both these petitions were disposed of in the backdrop of the fact that the parties expressed their desire before this Court by filing an affidavit stating therein that they do not wish to pursue the criminal case against each other. The Division Bench, then, by making a reference to the judgment of the Hon'ble Apex Court in the matter of **Gian Singh versus State of Punjab and another (2012) 10 SCC 303**, allowed the petitions. It was observed by the Division Bench in paragraph 9 that since material on record clearly demonstrates that the disputes between the parties were essentially of commercial nature and certain misunderstandings have led to initiation of the criminal proceedings, the ratio of the aforesaid judgment of the Hon'ble Supreme Court applies to the facts and circumstances of the present cases. While disposing of the petitions, the petitioners were directed to deposit an amount of Rs.1,00,000/- in the account of Children's Aid Society, Mumbai, within a

stipulated period. The FIR in those petitions were FIR No.M-3 of 2019 registered with Nhava Seva Police Station, Navi Mumbai, for offences punishable under Sections 405, 406, 415, 465, 467, 471 and 420 of the Indian Penal Code, 1863 and FIR bearing MECR 2 of 2014 registered with Nhava Seva Police Station, Navi Mumbai, as well as RCC No.49 of 2017 arising out of the FIR being MECR 2 of 2014 for the offences punishable under Sections 420, 465, 471 read with Section 34 of the Indian Penal Code, 1860. Writ Petition No.890 of 2021 was allowed in terms of prayer clause (a) and it reads thus :

“(a) This Hon ble Court be pleased to quash and set aside proceedings in connection with RCC No.49 of 2017 arising out of FIR bearing MECR No. 2/2014 registered with Nahva Seva Police Station, Navi Mumbai, pending before the Ld. Court of Civil Judge Junior Division Uran, for the offences punishable u/s. 420, 465, 471 rw. 34 of the Indian Penal Code, 1860 and goods ie. 500 MT tons of edible oils seized vide letter dated 27/04/2017 kindly be may released/ defreezed.”

3. Now the petitioner is before this Court challenging the legality of notice under Section 102 of the Code of Criminal Procedure, 1973 and with further prayer to conduct an enquiry against respondent No.3

and another prayer wherein direction is sought for respondent No.1-State to deposit appropriate compensation.

4. Learned counsel for the petitioner submitted that the oil which was the property seized in investigation in the backdrop of registration of offences be released in favour of the petitioner. A report was submitted to this Court and a detailed order was passed on 3rd February, 2022. It was specifically observed by this Court that in view of the order of this Court, the police authorities have already forwarded communication to IMC Company for release of oil and release of oil was refused on account of non-payment of rent for storage of oil. Thus, it was observed by this Court that the dispute is between two private parties viz. storage company and the storer. It was also observed that the parties have approached the City Civil Court by filing Suit No.555 of 2017 for establishing their civil rights and, accordingly, made necessary prayers before the City Civil Court. It is the submission of learned counsel for the petitioner that as the oil was seized by the officer of respondent – State in the process of investigation, directions be issued to the concerned police officer to release the oil and also directions be issued to the State for payment of charges or compensation to the petitioner as respondent No.3 is not releasing the stored oil.

5. We are not at all inclined to entertain the petition on above

referred factual aspects and prayers made in the petition are clearly not acceptable for issuing any directions. At the cost of repetition, we state that the FIRs and the criminal proceedings were quashed at the instance of the parties themselves who had approached this Court by filing the petitions and submitting before this Court that they are not desirous of prosecuting the criminal case lodged against each other. Secondly, non-release of oil stored is not on account of respondent - police authority while discharging any of the official duties but it is on account of commercial transaction between two private parties. Now the parties have also approached the competent Civil Court. In the backdrop of all these facts, we decline to entertain the petition. In our opinion, the petition is wholly meritless and deserves to be dismissed at the threshold.

Accordingly, the petition is dismissed.

6. We further make it clear that the dismissal of the petition may not come in the way of the parties who are before the Civil Court and the Civil Court may consider the matter pending before it on its own merits and pass an appropriate orders as per the provisions of law.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)