

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 468 OF 2020**

Mehul Chandrakant Shah ...Applicant
Versus

1. State Of Maharashtra
2. Mr. Francis Pelojo Candes ...Respondents

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Mr. Prasad D. Borkar, Advocate for the Applicant.

Ms. Clarissa Miranda i/by Mr. Abhishek Patil, Advocate for Respondent No.2.

Mr. A.D. Kamkhedkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 29th JUNE, 2022.

PER COURT:

1. First Information Report was registered with Malad Police Station on 2nd May, 2003 vide C.R. No.154 of 2003 by respondent no.2 under Section 406, 408, 465, 467, 468, 471, 477(A) r/w 120-B of Indian Penal Code on completing investigation charge-sheet was filed and case was numbered as C.C. No.154/PW/2007. The applicant preferred application for discharge under Section 239 of Cr.PC. It was rejected by Court of learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai vide order dated 14th December, 2016. The applicant challenged the above order by preferring Criminal Revision Application No.80 of 2017 before the Court of Sessions. The said application was requested by order dated 2nd March, 2020.

2. The learned Advocate appearing for both the sides, submitted that both the parties have settled the dispute. Consent terms are exempted between both sides on 22nd January, 2022.

3. Consent terms were filed in Arbitration proceedings. The claimant in the said proceedings was Dr. Kalpana Velaskar and respondent was respondent No.2

4. In the consent terms it is stated that claimant and respondent have settled the dispute pending between them including the dispute referred to the sole Arbitration vide order dated 19th March, 2008 passed by this Court in Arbitration Petition No.129 of 2008 read with order dated 18th June, 2003 passed in Arbitration Petition No.259 of 2003.

5. Paragraph no. 6 of the Consent Terms reads as follow:-

“That the Respondent herein-Dr. Francis P. Candes shall also consent for either discharge in the criminal case initiated by EOW or for quashing the criminal complaint or any proceedings in respect of the initial complaint filed by Dr. Francis P. Candes against the Petitioner and all other Accused in connection with the Complaint made by him and he shall co-operate for the discharge/quashing of the petition which is filed or may be filed by the Petitioner and other co-

accused. In case if the Respondent is not available, for any reason whatsoever, then the Petitioner can apply for disposal of the Criminal Proceedings on the basis of these Consent Terms”.

6. The photo copy of consent terms produced by Advocate representing both sides are taken on record and marked as ‘Article-X’ for the purpose of identification.

7. It is submitted by both the sides the criminal proceedings against petitioner may be quashed and set aside.

8. The co-accused Dr. Kalpana Velaskar had preferred Criminal Application No. 195 of 2021. In view of consent terms proceedings against the co-accused were quashed and set aside by order dated 15th March, 2022.

9. In view of consent terms and submissions of both sides, the order dated 14th December, 2016 passed by learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, order dated 2nd March, 2020 passed by Sessions Court in Criminal Revision Application No. 80 of 2017 and proceedings in C.C. No. 154/PW/2007 are quashed and set aside.

10. Criminal Application No. 468 of 2020 is disposed of.

(PRAKASH D. NAIK, J.)