Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3441 OF 2022

Dilip Harishankar Shrivastava .. Petitioner

Vs.

1. The State of Maharashtra

2. The Senior Inspector of Police,
MIDC Police Station

3. Murlikrashna Narsimhulu Yamanuru

4. Inox Leisure Ltd. .. Respondents

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Mr. Vishal Deshmukh for the petitioner
Mr. S.S. Hulke, APP for the respondent State
Mr. Dilip Satale for the respondent no.4
Mr. M.N. Yamanuru, respondent no.3 in person present

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

DATED : 15th DECEMBER, 2022.

P.C.

1. 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 A.P.P waives notice on behalf of the respondent nos. 1 & 2. M.N. Yamanuru is present in person. He waives notice on behalf of himself and Mr. Satale waives notice on behalf of the respondent No.4.

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.264 of 2015 with the MIDC Police Station, Mumbai for the alleged offences punishable under Sections 408, 415, 420, 468, 470, 471 of the Indian Penal Code and Section 65 of the Information Technology Act, 2000 and consequently, the proceeding pending before the learned 22nd Addl. Chief Metropolitan Magistrate Court at Andheri, being Case No.1176/PW/2017. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner, is an employee of the respondent no.4 i.e. Inox Leisure Ltd. was initially working as an

Executive (Administration) and thereafter, as a Senior Manager (Travel & Admin.), at its corporate office, in Mumbai. The petitioner's job was to make necessary arrangements including liaisoning with travel agents for making travel and accommodation bookings for respondent no.4's employee and consultants. According to the respondent no.3 – complainant, during the petitioner's employment with the respondent no.4, the petitioner engaged in fraudulent practices with respect to the booking of travel tickets with travel agencies. The said fraud done by the petitioner was revealed during the internal investigation carried out by the respondent no.4. Pursuant thereto, the petitioner's services with the respondent no.4 came to be terminated on 5th May, 2015 and an FIR was registered as against the petitioner, alleging the aforesaid offences. It is alleged that the petitioner committed fraud of about Rs. 12 crores and odd with respect to the ticket bookings i.e. the petitioner would book international air tickets in the name of third parties, cancel the tickets and collect the money. After investigation, charge-sheet was filed in the said case and the case is presently pending before the Additional Chief Metropolitan Magistrate, 22nd Court at Andheri, Mumbai, being C.C. No. 1176/PW/2017.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute. It also appears that the respondent no.4 – Inox Leisure Ltd. had filed a Civil Suit in this Court on the Original Side, being Civil Suit No.630 of 2018 as against the petitioner and his wife. The said suit was amicably settled between the parties and accordingly, consent terms entered into between them were filed in the said civil suit. The said consent terms are at "Exh.E" on page 515 of the petition.

6. Pursuant to the said consent terms entered into between the parties, this Court vide order dated 3rd May, 2019 dismissed the said suit as withdrawn. The said order is at page 548 of the petition. It appears that the petitioner has handed over 5 properties to the respondent no.4 – Inox Leisure Ltd., the valuation of which is around Rs.12 crores and odd.

7. Learned Counsel for the respondent no.4 – Inox Leisure Ltd. has tendered a consent affidavit of Mrs. Pratibha Shailesh Kotain, authorized representative of the respondent no.4. To the said

affidavit is annexed the Board Resolution of the said company, dated 19th October, 2022. In the said affidavit, Mrs. Kotian, authorised representative of respondent no.4 has stated that the matter has been amicably settled between the parties. It is further stated that gold jewellery worth Rs.5 lakhs, which is with the petitioner will be handed over by the petitioner to the respondent no.4. The respondent no.3 has also filed his consent affidavit dated 14th December 2022. In the said affidavit, the respondent no.3 has stated that he has no objection to the quashing of the FIR, subject to the gold jewellery worth Rs.5 lakh, being appropriated by the respondent no.4, towards its dues. Both the consent affidavits are taken on record. Similarly, photocopy of the Aadhar Cards of the respondent nos. 3 and Mrs. Kotian, authorised representative of respondent no.4, duly attested by them, are also taken on record. The respondent no.3 – original complainant and Mrs. Pratibha Kotian, authorized representative of the respondent no.4 company are present in person. On being questioned, they reiterate the contents of their affidavits. Learned Counsel for the respondent nos. 3 and Mrs. Kotian, authorised representative of respondent no. 4 have been identified by their Counsel and the learned APP has verified the original Aadhar Cards of the respondent nos. 3 and Mrs. Kotian, authorised representative of the respondent no. 4.

8. Considering the nature of dispute, the amicable settlement between the parties, the consent affidavits of respondent nos. 3 and 4, there is no impediment in allowing the petition.

9. Accordingly, the petition is allowed and C.R. No.264 of 2015 with the MIDC Police Station, Mumbai and consequently, the proceeding pending before the learned 22nd Additional Chief Metropolitan Magistrate Court at Andheri, being Case No.1176/PW/2017 are quashed and set aside, subject to the petitioner depositing costs of Rs. 1,00,000/- (Rupees One Lakh only) with the **Children Aid Society, bearing Account No. 02370100005612 IFSC No. UCBA0000237** within 4 weeks from today. On deposit of costs of Rs.1,00,000/- by the petitioner in the aforesaid bank account, the Children Aid Society, Mumbai shall immediately transfer the said amount of costs for betterment of the children to the New and Additional Children's Home, Mankhurd, Mumbai. The respondent no.4 also to deposit costs of Rs.1,00,000/- (Rupees One Lakh only)

with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465** within 4 weeks from today.

10. Rule is made absolute in the aforesaid terms. Writ Petition is disposed of accordingly.

11. Matter be listed on **31st January, 2023** for recording compliance of the payment of costs.

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

[PRITHVIRAJ K. CHAVAN, J.] **[REVATI MOHITE DERE, J.]**