

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

CRIMINAL WRIT PETITION NO. 3638 OF 2021

Jagdishsingh Kalusingh Bhati

...Petitioner

Versus

1. The State of Maharashtra

2. Ranapratap VinodKumar Shukla

...Respondents

Mr. Siddhesh Pilankar i/b Mr. Onkar Arun Mane for the Petitioner

Ms. S. D. Shinde, A.P.P for the Respondent No.1-State

Mr. S. J. Mishra for the Respondent No. 2

**CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.
WEDNESDAY, 28th SEPTEMBER 2022**

P.C :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Mr. Mishra waives notice on behalf of the respondent No.2.

3 By this petition, the petitioner seeks quashing and setting aside of the complaint/FIR registered vide C.R. No. 32/2020 with the Dahisar Police Station, Mumbai, for the alleged offences punishable under Sections 409 and 420 of the Indian Penal Code. Quashing is sought on the premise that the petitioner and the respondent No. 2 have amicably settled their dispute.

4 Perused the papers. According to the respondent No.2/original complainant, despite he paying a sum of Rs. 15,00,000/- to the petitioner towards purchase of a machine, the petitioner did not supply/deliver the said machine to him. Accordingly, the aforesaid complaint was registered vide C.R. No. 32/2020 at the instance of the respondent No.2. We are informed that charge-sheet has not been filed till date.

5 It appears that post the registration of the aforesaid C.R, the parties amicably settled their dispute and entered into consent terms. Learned counsel for the applicant has tendered the consent

terms dated 28th September 2022, duly affirmed before the Notary. The said consent terms are signed by the respective parties i.e. the petitioner and the respondent No. 2 and their respective advocates. The said consent terms are taken on record and marked 'X' for identification.

6 It appears from the said consent terms that the petitioner has deposited a total sum of Rs. 15,00,000/- in this Court in the Anticipatory Bail Application filed by him. In the said consent terms, the petitioner has given his consent for withdrawing the said amount of Rs. 15,00,000/- with accrued interest to the respondent No.2. It further appears from the consent terms that the petitioner has agreed to pay to the respondent No.2 -

- i) Rs. 1,00,000/- - on or before 28/10/2022;
- ii) Rs. 1,00,000/- - on or before 28/11/2022;
- iii) Rs. 1,00,000/- - on or before 28/12/2022; and
- iv) Rs. 1,00,000/- - on or before 28/1/2023

7 The respondent No. 2, in view of the undertaking given by the petitioner as stated aforesaid, has agreed to give his no objection to the quashing of the aforesaid C.R. registered at his instance, against the petitioner.

8 Learned counsel for the respondent No. 2 has tendered an affidavit of the respondent No. 2 dated 28th September 2022, duly affirmed before the Notary. The same is taken on record. To the said affidavit, is annexed a self attested xerox copy of the Aadhar Card of the respondent No. 2. Respondent No. 2 is identified by his counsel. Learned A.P.P has verified the original Aadhar Card of the respondent No.2.

9 Respondent No. 2, in his affidavit, has given his consent for quashing of the aforesaid C.R. in view of the consent terms entered into between the parties. Respondent No.2 is present in Court. On being questioned, he re-iterates what is stated by him in the affidavit.

10 Considering the aforesaid, the nature of dispute, the consent terms entered into between the parties and having regard to the judicial pronouncements of the Apex Court in this regard, there is no impediment in allowing the petition. Hence, we pass the following order :

ORDER

- (1) The petition is allowed.
- (2) The complaint/FIR registered vide C.R. No. 32/2020 with the Dahisar Police Station, Mumbai and the proceedings, if any, arising therefrom, are quashed and set-aside, subject to the condition that, the petitioner pays a sum of Rs. 4,00,000/- to the respondent No.2 i.e.
 - i) Rs. 1,00,000/- - on or before 28/10/2022;
 - ii) Rs. 1,00,000/- - on or before 28/11/2022;
 - iii) Rs. 1,00,000/- - on or before 28/12/2022; and
 - iv) Rs. 1,00,000/- - on or before 28/1/2023

(3) As far as Rs. 15,00,000/- deposited by the petitioner in the Registry of this Court is concerned, in view of the no objection given by the petitioner, we permit the respondent No. 2 to withdraw the said amount of Rs. 15,00,000/- alongwith the accrued interest, on furnishing proof of his identity, before the concerned Officer.

(5) The petitioner and the respondent No. 2 to deposit a sum of Rs. 15,000/- each, with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, towards costs. The said costs to be deposited within three weeks from today.

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

12 Stand over to **10th November 2022** for recording compliance of deposit of cost.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.