

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

CRIMINAL APPLICATION NO.889 OF 2021

Himanshu Gupta

... Applicant

Vs.

State of Maharashtra And Anr.

... Respondents

Mr. Abhishek Adke a/w Mr. Sarvesh Patil, Advocates for Applicant.

Mr. J. P. Yagnik, learned APP for Respondent - State.

Mr. Mikhail Dey a/w Tanmay Karmarkar i/b Mr. Dinesh Tiwari, Advocate for Respondent No.2.

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

DATE : 22nd April, 2022

P.C. : (Per. S. M. Modak, J)

1. Heard Mr. Abhishek Adke, the learned Advocate for Applicant, Mr. Mikhail Dey, the learned Advocate for Respondent No.2 and Mr. J. P. Yagnik, the learned APP for State.

2. The MECR No.5 of 2018 at Amboli Police Station, Mumbai dated 9th December, 2018 is the outcome of an order passed by the Metropolitan Magistrate, for the offences punishable under Sections 378, 381 & 406 of Indian Penal Code, 1860 and under Sections 43, 66 & 72 of Information Technology Act, 2000. One Smt. Jenna Krishnan is the first informant. She is the Legal Manager of Renoir Management

Consulting India Pvt. Ltd. ("Renoir") company. The Applicant was working as Sales manager in the said company. She was given a Laptop of HP company to save information about the clients' project and it is saved in the Laptop. Due to poor performance the Applicant was asked to do field work. She has refused and shown her readiness to resign. Applicant was asked to return back a laptop and she returned it. The laptop was sent for forensic audit.

3. After the audit it was revealed that entire data has been deleted. It was further revealed that the said data is uploaded on 'Google Drive'. It was revealed that the Applicant is responsible for reducing the business of the company and their clients shifted to another company. The company demanded a fine of Rs.30 Lakhs from the Applicant. The Applicant refused the allegations accordingly, the proceedings were initiated before the arbitration. On this backdrop the first informant lodged the complaint and Amboli Police Station registered an offence.

4. The proceedings are pending before sole arbitrator Mr. Rashmin Khandekar. Both the parties have arrived at settlement on 20th February, 2020. The Applicant has agreed to pay Rs.4 Lakhs towards full and final settlement of the claims in relation to employment

agreement. Its copy is filed on record on Page No.24. The company has agreed to co-operate for withdrawing the criminal proceedings. Learned arbitrator has also declared a consent award on 20th February, 2020. Its copy is filed on record.

5. The Respondent No.2 has also filed an affidavit on behalf of the Company thereby reiterating the settlement and given consent for quashing of the FIR. The dispute pertains to the allegation of data theft, both have settled that dispute and compensation is paid. Hence there is no point in continuing the prosecution. Hence the Order:-

ORDER

- a) Criminal Application No.889 of 2021 is allowed.
- b) MECR No.05 of 2018 dated 9th December, 2018 of Amboli Police Station for the offences punishable under Sections 378, 381, 406 of the Indian Penal Code, 1860 and Sections 43, 66 & 72 of the Information Technology Act, 2000, quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)