

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

CRIMINAL WRIT PETITION NO.6277 OF 2021

Biju C. Paul, Managing Director of
Creative HR International Standards

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Sindhu Shajee for the Petitioner

Ms. Veera Shinde, A.P.P for the Respondent No.1–State

None for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.

MONDAY, 3rd JANUARY 2022

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner has sought the following reliefs :

“a. *The Hon’ble Court may be pleased to call for the records and proceedings Under Article 226 & 227 of the Constitution of India pertaining to the order dated 04.12.2021, 30.11.2021 passed by the Judicial Magistrate First Class Thane, Court No.6 and 8 and after examining the legality, correctness and propriety of the same quash and set aside the same;*

- b. *Pending hearing and final disposal of the present Petition the Petitioner be granted bail and immediately released from the Magistrate custody;*
- c. *Pending hearing and final disposal of the present Petition the Respondents, their office, officers, representatives, servants and agents be restrained by order or interim injunction from proceeding any further against the Petitioner and the accused in the FIR 383 of 2021 or causing any disturbance or harassment;*
- d. *Interim and Ad-Interim relief in terms of prayer Clause b) above be granted;*
- e. *All the Petitioners from 1 to 4 be acquitted from this case for having done no crime they are innocent;*
- f. *The complaint and matter is an international arbitration matter having jurisdiction at France and has no jurisdiction to be filed in any Indian Courts. The said matter is based on contract originated at Vietnam having arbitration as a mode of dispute resolution hence CR No.383 of 2021 of the Judicial Magistrate (F.C.) Thane at Thane Court No.8 be set aside and quashed for lack of any criminal nature and having no jurisdiction in any court of law in India;*
- g. *The Petitioner be acquitted from FIR No.0383 of 2021 filed by the Mira Road Police Station. Complaint CR No.383 of 2021*

of the Judicial Magistrate (F.C.) Thane at Thane and release from Judicial Custody with immediate effect;

- h. The said complaint CR No.0383 of 2021 of the Judicial Magistrate (F.C.) Thane at Thane and FIR No.0383 of 2021 filed by the Mira Road Police Station to be quashed and set aside as it is a civil matter as no alleged offence has been committed by the Petitioner;*
- i. The Respondent No.2 has no authority or power to file the Complaint on behalf of his Company. Hence the complaint is illegal and be dismissed;*
- j. The Respondent No.2 be imposed with heavy cost and compensatory cost for having misutilized and wasting the valuable time of the Hon'ble court, Judiciary and the Police for filing such false and fabricated case;*
- k. The Complaint and matter be dismissed with immediate effect for it is false and fabricated;*
- l. The Economic Offences Wing (EOW) to conduct forensic investigate to rule in that the Respondent No.2 is in active international money laundering and cheating innocent business persons in India;*
- m. Any other further relief in the interest of justice as may be deemed fit and proper by this Hon'ble court be granted;*

- n. *The Petitioner be given liberty to add, amend and alter this application and submit any further documents with the permission of this Hon'ble Court as and when required;*
- o. *The Petitioner prays for the above prayers to be passed by this Hon'ble Court and in the interest of justice any other order as this Hon'ble Court may deem fit and proper."*

3 As far as prayer clause (a) is concerned, the petitioner has impugned orders dated 4th December 2021 and 30th November 2021 challenging the PCR granted. The said period of PCR has already come to an end and the petitioner has been sent to judicial custody and is presently in judicial custody and therefore, the question of examining the said orders does not arise.

4 As far as prayer clause (b) seeking the petitioner's release from the Magistrate custody is concerned, the petitioner is at liberty to file an appropriate application before the concerned Magistrate. If such an application is filed, the learned Magistrate shall decide the said application expeditiously.

5 As far as some interim prayer clauses are concerned, the question of acquitting the petitioner, does not arise, inasmuch as, today even charge-sheet has not been filed and therefore, the question of granting any relief as far as the said prayer clauses are concerned, does not arise. Infact, investigation is in progress and trial is yet to commence. As far as some of the other prayer clauses are concerned, it is always open for the petitioner to adopt appropriate proceedings, as may be permissible in law. It is made clear that all contentions of the petitioner are kept open.

6 The petition is disposed of on the aforesaid terms.

REVATI MOHITE DERE, J.