

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.6756 OF 2021

AARTI
G
PALKAR

Digitally signed
by AARTI G
PALKAR
Date:
2022.02.21
11:11:27
+0530

Mohit Parag Pandharipande & Anr.Petitioners

Versus

The State of Maharashtra & Anr.Respondents

Ms Lakshmi Raman for the Petitioners.

Mr. Rohit V. Pawaskar for Respondent No.2.

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

Smt. Varsha C. Sankholker, Respondent No.2 present in person.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 14th FEBRUARY, 2022.

P.C. :

1. Heard Mr. Raman, learned counsel for the petitioners, Mr.Pawaskar, learned counsel for respondent No.2 and Mr.Yagnik, learned APP for the State.

2. Petitioner No.2 is the partnership firm. The petitioners have approached this Court for seeking quashment of FIR No.86 of 2021 registered on 8.2.2021 with Andheri Police Station, Mumbai for the offences punishable under Sections 409 & 420 read with Section 34 of the Indian Penal Code, 1860 and the proceeding arising out of the said FIR namely C.C.No.2676/PW/2021 pending before the learned Metropolitan Magistrates Court, 76th Court at Andheri, Mumbai.

3. Perusal of documents show that Respondent No.2 had approached Andheri Police Station on 8.2.2021 with submission that Petitioner No.1 had an acquaintance with the husband of Respondent No.2. Their acquaintance turns into a close friendship. Petitioner No.1 sometimes in the month of August 2018 informed the husband of Respondent No.2 that he has formed a partnership firm under the name and caption “Mustang Wealth Management and Consulting LLP”. Necessary permission is also sought for and granted by the Controlling Authority i.e. CEBI. A rosy picture was painted before the husband of Respondent No.2 by Petitioner No.1 that on an investment the husband of Respondent No.2 would get handsome returns and also assured of the returns. By this rosy picture and assurances, the husband of Respondent No.2 was prompted to deposit/invest a large amount of Rs.3,55,33,500/- (Rupees Three Crores Fifty-Five Lakhs Thirty-Three Thousand and Five Hundred Only) in various installments and subsequently found that there was no return as assured by him.

4. Perusal of the material placed on record further show that post filing of the FIR and during pendency of the proceedings, Petitioner No.1 returned a major share of the investment. It is stated in Para 2 of the affidavit in reply filed on behalf of Respondent No.2/original complainant that it is agreed between Respondent No.2 and Mrs. Mohini Parag Pandharipande that upon receipt of Rs.90,00,000/- (Rupees Ninety Lakhs Only), Respondent No.2 will give consent for quashing of C.R.No.86 of 2021 dated 8.2.2021, registered at Andheri Police Station, Mumbai only against Mrs. Mohini Parag Pandharipande. It is also revealed that as per

the agreement between the parties, an amount of Rs.90,00,000/- (Rupees Ninety Lakhs Only) would be returned in two installments.

5. Perusal of the affidavit in reply shows that Respondent No.2 agreed to give her consent for quashing of C.R.No.86 of 2021 dated 8.2.2021, registered at Andheri Police Station, Mumbai on accepting total amount of Rs.2,48,00,000/- (Rupees Two Crore Forty Eight Lakhs Only) towards full and final settlement of the complaint against Petitioner No.1. Then a reference is made in the consent terms about the installments to be paid by Petitioner No.1 to Respondent No.2. A copy of consent terms arrived at between the parties is also placed on record Exh.C of the petition. The consent terms are duly signed by the representative of Petitioner No.1 i.e. his mother and the counsel representing the parties.

6. An order was passed by the Division Bench of this Court dated 16.7.2021 in Criminal Writ Petition No.1102 of 2021 is also placed on record at Exhibit D. Learned counsel appearing for the petitioners also placed reliance of the judgment of the Apex Court in the matter between ***Gian Singh Vs. State of Punjab & Anr., reported in 2012(10) SCC 303.***

7. Considering these facts, we are of the opinion that no fruitful purpose will be served by continuing the FIR lodged at Andheri Police Station, Mumbai. The final installment and balance amount to the tune of Rs.54,00,000/- (Rupees Fifty Four Lakhs Only) is handed over to Respondent No.2 today itself by Demand Draft. Respondent No.2 who is present in this Court admits this factual position. Accordingly, the case is made out for quashing the FIR lodged at Andheri Police Station as well as

the proceeding.

8. In view of the above referred facts though we allow the Petition in terms of prayer clause (a), we deem it appropriate to impose certain condition on the parties. Accordingly, we direct Petitioner Nos.1 and 2 to deposit Rs.1,00,000/- (Rupees One Lac Only) each to the Tata Memorial Hospital within four weeks from today and place on record a copy of receipt thereof.

9. With the above directions, the petition stands disposed of.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)