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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5635 OF 2019

Vivek s/o. Akhilendra Anand and ors. ... Petitioners
V/s.
State of Maharashtra and ors. ... Respondents

Mr. Akash Singh i/b Mr. A.M. Saraogi for the Petitioners.
Mr. K.V. Saste, APP for the Respondent No.1/State.
Mr. Prashant J. Rai for Respondent No.2.

CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.
DATE : 3 AUGUST 2022.

P.C.

. Leave to amend is granted to incorporate the prayer regarding quashing of the further proceedings in the petition. Amendment to be carried out forthwith.

2. By this petition, the Petitioners are seeking to quash FIR No. 162 of 2019 dated 21 September 2019 registered at New Panvel Police Station *qua* the Petitioners for the offence punishable under Section 406 read with 34 of the Indian Penal Code (for short “IPC”) and all the further proceedings arising out of the said FIR..

3. The learned Counsel for the Petitioners states that the ground for quashing the FIR is that the Respondent No.2 – Complainant

has given consent. This fact is confirmed by the learned Counsel representing the Respondent No.2 – Complainant. The learned counsel for the Petitioners and Respondent No.2 jointly prayed that the FIR be quashed by consent of Respondent No.2 as they have resolved the dispute which led to filing of FIR which is a commercial dispute. The learned counsel rely upon the decision of the Hon'ble Supreme Court in the case of *Gian Singh v/s. State of Punjab*¹.

4. The Respondent No.2 filed a FIR contending that the Petitioners had committed criminal breach of trust by removing the goods worth Rs.5664958/-. In the affidavit that is filed by Respondent No.2 giving consent, it is stated that Respondent No.2 is the Director of M/s. Enpar Steels Pvt. Ltd. The learned counsel for Respondent No.2 has placed a copy of resolution passed generally authorized the deponent to act on behalf of M/s. Enpar Steels Pvt. Ltd. We accept the statement made by learned counsel for Respondent No.2 in that regard. In the affidavit of consent, it is stated that the matter was settled at Rs.2200000/-which amount has been received from the Petitioners.

5. Considering the allegations in the FIR and that the settlement took place pursuant to which the amount has been returned, we do not find that the dispute has large scale implications on the society. In light of the affidavit filed by Respondent No.2, petition deserves

¹ 2012(10)SCC 303

to be allowed as keeping the prosecution pending would be needless harassment to the parties and it is not likely to result in conviction. Accordingly, the following order is passed.

- a) Writ Petition is allowed.
- b) The FIR No. 162 of 2019 dated 21 September 2019 registered at New Panvel Police Station for the offence punishable under Section 406 read with 34 of the IPC and all the further proceedings arising out of the said FIR *qua* the Petitioners are quashed.
- b) The Petitioners will pay costs of Rs.25000/- to the Police Welfare Fund viz. “*Maharashtra Police Welfare Fund Account No.914010029005759 IFSC Code: UTI B0000060*” within six weeks from today and this order is conditional upon payment.
- c) Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)