IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1782 OF 2019
(NOT ON BOARD)

Jawahar Lal ...Applicant/Accused)

Versus

1. The State of Maharashtra
2. M/s. M. Ashok Kumar Industries L.L.P. ...Respondents

WITH
CRIMINAL INTERIM APPLICATION NO.3652 OF 2022
IN
CRIMINAL APPLICATION NO.1782 OF 2019

M. Ashok Kumar Industries LLP ...Applicant
(First Informant)

IN THE MATTER BETWEEN :

Jawahar Lal ...Applicant
(Original Accused)

Versus

The State of Maharashtra ...Respondent

Mr. Kiran Varma i/b Ms. Prajakta P. Kale, for the Applicant in APL/1782/2019.

Mr. Manish Bohra, for the Applicant/First Informant in IA/3652/2022 and for the respondent No.2 in APL/1782/2019.

Mr. J. P. Yagnik, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.
DATE : 28th NOVEMBER 2022

***P.C.* :**

1. Criminal Application No.1782 of 2019 is not on board, taken on board and heard along with Criminal Interim Application No.3652 of 2022.

2. Heard learned counsel for the parties.

3. 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. Bohra waives notice on behalf of the respondent No.2.

4. By application being Criminal Application No.1782 of 2019, preferred under Section 482 of the Criminal Procedure Code, the applicant seeks quashing of the FIR bearing C.R. No. 132 of 2018 registered with the L.T. Marg Police Station, Mumbai, for the alleged offences punishable under Sections 420, 467, 468, 471 of the Indian Penal Code and under Sections 66(B), (C) and (D) of the Information

Technology Act. Quashing is sought on the premise, that the parties have amicably settled their dispute.

5. The respondent No.2 has filed the aforesaid Interim Application, being Interim Application No.3652 of 2022, seeking refund/withdrawal of an amount of Rs.5,95,232/- deposited by the applicant in the registry of this Court.

6. Perused the papers. According to the complainant, an amount of Rs.5,95,232/- was transferred in the applicant's account, at the behest of one Ayuub Suleman. According to the learned counsel for the applicant, the applicant was unware of the amount received by him in his account i.e. of Rs.5,95,232/- on 1st March 2018. It is submitted that when the applicant enquired with the bank officials, he learnt that the said amount was transferred by Ashok Kumar Industries. It is the applicant's case that on learning that such a huge amount was transferred in his account, he wrote a letter to the Bank Manager as well as Kotwali Police Station informing them of the same.

It is not in dispute that the applicant had deposited the said amount of Rs.5,95,232/- in the registry of this Court, on his own accord in the Anticipatory Bail Application preferred by him, before this Court, being Anticipatory Bail Application No.1407 of 2019. It appears that after investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai, being Case No.PW/11/2021.

7. Learned Counsel for the respondent No.2 states that the respondent No.2 has no objection to the quashing of the said case. Learned Counsel for the respondent No. 2 has tendered an affidavit of the respondent No.2 dated 28th November 2022, duly affirmed before the Notary. To the said affidavit is annexed the Company Resolution. The said affidavit is taken on record. In the said affidavit, the respondent No.2 has given his no objection to the quashing of the aforesaid application, subject to receiving Rs.5,95,232/- alongwith accrued interest lying in the registry of this Court, being returned to him. Learned counsel for the respondent No. 2 has tendered a self-

attested photocopy of the aadhar card of the respondent No.2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

8. Learned Counsel for the applicant has no objection, if the respondent No.2 is permitted to withdraw the amount of Rs.5,95,232/- deposited by the applicant in the registry of this Court, alongwith accrued interest, if any.

9. Considering the nature of dispute, the amicable settlement between the parties, the affidavit of the respondent No.2 and having regard to the judicial pronouncements in this regard, there is no impediment in allowing the application.

10. Criminal Application No.1782 of 2019 is accordingly allowed and the FIR bearing C.R. No. 132 of 2018 registered with the

L.T. Marg Police Station, Mumbai and consequently, the proceeding pending before the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai, being Case No.PW/11/2021, are quashed and set-aside.

11. The respondent No.2 is permitted to withdraw the amount of Rs.5,95,232/-, deposited by the applicant in the registry of this Court in Anticipatory Bail Application No.1407 of 2019 alongwith accrued interest, if any, on furnishing proof of his identity. Interim Application No.3652 of 2022, is allowed accordingly.

12. Rule is made absolute in the aforesaid terms. Applications are disposed of accordingly.

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

R. N. LADDHA, J. ***REVATI MOHITE DERE, J.***