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

CRIMINAL WRIT PETITION NO.5258 OF 2018

Pankaj Sanghani	...Petitioner
Versus	
1. State of Maharashtra	...
2. Jagdish Singh	...Respondents

Mr. Rajendra B. Singhvi with Dhruvil Shah i/b Lex Services for the Petitioner.

Mr. J. P. Yagnik APP for the Respondent No.1.

Mr. Sudeep Pasbola i/b Mr. Waqar Pathan & Mr.Ayush Pasbola for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
S.M. MODAK, JJ.**

DATE : 6TH OCTOBER 2022

P.C. :

1 Heard learned counsel for the parties.

2 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. Sudeep Pasbola, learned counsel waives notice on behalf of the

respondent No.2.

3 By this petition, preferred under Article 226 of the Constitution of India, and under section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR, bearing C.R. No.233 of 2018, registered with the D. B. Marg Police Station, for the offences punishable under sections 403, 420 and 424 of the Indian Penal Code.

4. Quashing is sought on the premise, that the parties have entered into the consent terms, and have amicably settled their dispute.

5. Perused the papers. According to the respondent no.2 (original complainant) since September 2018, he was dealing in the supply of 'Rough Diamonds' and that the goods were supplied on credit of 30 days, as is the practice in the market. He has stated that the petitioner had to transfer an amount of Rs.4.33 crores to one 'X' company, however, inadvertently, the money got transferred to the petitioner's account and that the

petitioner, transferred the said amount, to different accounts. As the petitioner refused to return the money, the respondent no.2, lodged the aforesaid FIR.

6. After investigation, charge-sheet was filed, and the case is presently pending before the learned Additional Metropolitan Magistrate, 18th Court, Girgaon, Mumbai, being Misc/128/2019.

7. During the pendency of the aforesaid case, the parties have amicably settled their dispute and entered into the consent terms. The said consent terms entered into between the petitioner and the respondent no.2 (original complainant) dated 4th October 2022, are duly notarized before the notary. The said consent terms tendered today is taken on record. As per the said consent terms, the parties have amicably settled their dispute. Both the parties, have agreed to withdraw the petitions/complaints filed against each other. The respondent no.2 in the said consent terms, has unconditionally given his no objection for quashing of the FIR, bearing C.R. No. 233 of 2018,

registered with the D. B. Marg Police Station, Mumbai, since the respondent no.2, has received the entire amount mistakenly deposited by him in the petitioner's account. Alongwith the said consent terms, the learned counsel for the respondent no.2 has tendered, an affidavit of the respondent no.2, dated 4th October 2022, duly notarized. The same is also taken on record. A xerox copy of the Aadhar card of the respondent no.2, is also tendered, duly signed by the respondent no.2. The same is also taken on record. In the said affidavit, the respondent no.2 has stated that he has settled the dispute and that he has received the entire amount, from the petitioner and, as such, has no objection to quashing of the said complaint/FIR/proceedings.

8. On being questioned, the respondent no.2, who is present in person, re-iterates, what is stated by him in the affidavit. Learned counsel for the respondent no.2 has identified by the respondent no.2, and the learned APP has verified the original Aadhar card.

9. Considering the aforesaid facts, that the parties have

amicably settled their dispute, have entered into the consent terms, the affidavit of the respondent no.2 giving his no objection to quashing of the FIR/proceedings, and also having regard to the judicial pronouncements in this regard in the case of Misc/128/2019 pending before the 18th Court, Additional Metropolitan Magistrate at Girgaum, Mumbai, there is no impediment in allowing this petition.

10. Accordingly, the petition is allowed and C. R. No.233 of 2018 registered with the D.B. Marg Police Station, Mumbai, and consequently, the proceeding pending before the learned Metropolitan Magistrate 18th Court, Girgaon, Mumbai, being Misc/128/2019, are quashed and set aside.

11. The petitioner to deposit Rs.1,00,000/- with the **Maharashtra Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060** and the respondent no.2, to deposit Rs.50,000/- also with the **Maharashtra Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060** within three

weeks from today.

12. Needless to state, that the order quashing the proceedings as aforesaid, is subject to the parties depositing costs as stated above.

13. Pursuant to the aforesaid order, the Police to take immediate steps to de-freeze the accounts frozen by them during the course of investigation of the aforesaid C. R.

14. The petition is accordingly disposed of.

15. List the matter on **23rd November 2022**, for recording compliance of the order of the deposit.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.