

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

CRIMINAL WRIT PETITION NO.6359 OF 2019

Dilip Kumar Babulal Jain And Anr	... Petitioners
Vs.	
State of Maharashtra And Anr.	... Respondents

Mr. Y. M. Thakur, Advocate for Petitioners.
Ms. M. H. Mhatre, APP for Respondent – State.
Mr. Prakash Mali i/b M. D. Mali & Co., for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 22nd April, 2022

P.C. : (Per. S. M. Modak, J)

1. Heard Mr. Thakur, the learned advocate for the Petitioners, Mr. Prakash Mali, the learned advocate for Respondent No.2 and Ms. M. H. Mhatre, learned APP for Respondent-State.

2. The Respondent No.2 Shyamsunder is the first informant. He manufactures golden and silver ornaments in his shop at Zaveri Bazar, Mumbai. Petitioner No.2 Sunny Jain came to his shop in February, 2018 along with one Bapibera and expressed desire for a preparation of certain golden ornaments. Petitioner No.2 called the first informant in

his shop at Vitthalwadi, Mumbai and introduced him with Petitioner No.1 Dilip Jain.

3. During the period of October, 2008 till December, 2008 the first informant prepared ornaments as per the Order of both the Petitioners. Respondent No.2 used his own gold for that transaction both the Petitioners owe an amount to first informant. When he visited the new shop of Petitioners, Petitioner Dilip Jain abused him. Respondent No.2 realized that he is cheated. In all Respondent No.2 owes an amount of Rs.9,35,000/- thousand from both this Petitioners. Accordingly, he lodged complaint with the Court of Metropolitan Magistrate. On the directions of the Court Lokmanya Tilak Marg Police Station registered MECR No.4 of 2015 on 19th of January, 2015 for the offence punishable under Sections 406, 418, 420 read with 34 of the Indian Penal Code.

4. During pendency of this proceeding both the parties have settled their dispute. They have finalized the amount liable to be paid by Petitioner to Respondent No.2. It comes to Rs.5 Lakhs. The said amount is paid by Petitioners to Respondent No.2. Respondent No.2 has also filed an affidavit admitting receipt of that amount and giving consent for quashing.

5. We are inclined to allow this Petition as the main dispute about payment of the amount is settled by the parties. Now there is no point to continue the Prosecution. Hence the Order:-

ORDER

- a) Criminal Writ Petition No.6359 of 2019 is allowed.
- b) The MECR No.4 of 2015 for the offence punishable under Sections 406, 418, 420 read with 34 of IPC is quashed and set aside with subject to Petitioner Nos.1 & 2 and Respondent No.2 each depositing cost of Rs.25,000/- in the Police Welfare Fund.
- c) The cost be deposited within two weeks from today.
- d) For the quashment to take effect, the Petitioners and Respondent No.2 shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today.
- e) Failing to pay cost and produce receipts within stipulated time, petition shall stand dismissed automatically without further reference to the Court and Order quashing the proceedings / FIR shall be treated as *non-est*.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)