

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 302 OF 2022

Dinesh Shyamji Shah and Anr.	...	Petitioners.
<u>Versus</u>		
The State of Maharashtra and Anr.	...	Respondents.

— —

Mr. Rohan Bhosle, for the Petitioners.
Mr. K.V. Saste, APP for Respondent No.1.
Mr. Prashant Mishra, for Respondent No.2.

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**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : June 06, 2023.

ORDER (Per : Sharmila U. Deshmukh, J.):

1. The Petitioners are arrayed as accused in connection with FIR registered with Dahisar Police Station by the Respondent No.1 being C.R.No.151 of 2013 for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 120(B) of the Indian Penal Code, 1860. The relief sought in the petition is the quashing of the chargesheet filed and pending before the learned Metropolitan Magistrate, 47th Court, Esplanade, Mumbai in Criminal Case

No.415/PW/2020 and also the Criminal Case No.415/PW/2020.

2. Learned counsel appearing for the Petitioners and the Respondent No.2 submit that during the pendency of the present proceedings, the dispute has been settled between the parties. Learned counsel appearing for the Respondent No.2 has tendered the consent-affidavit of Respondent No.2, as also of other partners of the firm named Vishnu Enterprises, the partnership firm in which the Petitioners and the Respondent no.2–Complainant were the partners alongwith others. Learned counsel for the Respondent No.2 has also tendered the death certificate of Baluben Popatbhai Bharwad and Sushma Chandrakant Jaykar, who were also the partners of the partnership firm. The consent-affidavits and the death certificates are taken on record. The deponents of the consent-affidavits are present in-person in the Court and have been identified by their counsel.

3. Perused the proceedings. In the FIR, it is alleged that while carrying out day to day affairs of the business of the partnership firm, there were certain money transactions which were carried out by the Petitioners, which has resulted in siphoning of the funds in the partnership firm.

4. The consent-affidavits filed on record state that the withdrawal amounts have been redeposited in the partnership firm's account and, as such, the partners do not have any grievance against the Petitioners and they have no objections to the chargesheet and the consequent proceedings pending on the file of the learned Metropolitan Magistrate, 47th Court, Esplanade, Mumbai being Criminal Case No.415/PW/2020 being quashed. The deponents present in the Court have reiterated the contents of the affidavits and have stated that they have no objections to the petition being allowed.

5. It appears that the dispute in question has arisen amongst the partners pertaining to the partnership firm accounts and, as such, it can be inferred that the dispute has overtones of civil nature. On the basis of compromise arrived at between the parties, the partners of the partnership firm have stated that they do not have any further claim against the Petitioners. In our opinion, in view of the compromise which has been arrived at between the parties, continuing with the criminal proceedings would be an exercise in futility and will not achieve any fruitful outcome.

6. Considering the above, we do not find any impediment in quashing the chargesheet and the proceedings being criminal case No.415/PW/2020 pending before the learned Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, hence, the following order.

ORDER

(a) The chargesheet filed before the learned Metropolitan Magistrate, 47th Court, Esplanade, Mumbai bearing criminal case No.415/PW/2020 arising out of the CR No.151 of 2023 registered with Dahisar Police Station, as also the proceeding bearing Criminal Case No.415/DW/2020 are hereby quashed and set aside.

(aa) The prayer of the Petitioners for defreezing account stands allowed in terms of prayer clause (c).

(b) Writ petition stands allowed. No costs.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]

This order is corrected pursuant to the Speaking to the Minutes order dated 19th June, 2023.