

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE JURISDICTION

CRIMINAL WRIT PETITION NO. 935 OF 2020

1. Mr. Shreekara Bhat Age-24yrs
Indian Inhabitant presently having
his residence at SLV PG Soyuka Road,
Bengaluru – 560067
Hometown-Shriwasa, near Madbettu
School, Kodavoor Post, Udupi,
Karnataka-576106 }Petitioners/Accused.

Versus

1. The State Of Maharashtra
(Through Colaba, Police Station.) }
2. Mr. Omprakash Radhakishan Gurjar
First Informant, Indian Inhabitant
Having his address at Naval
Dockyard, Fleet, INS Tabar, Lions
Gate, Colaba,Mumbai-400005. }Respondents

Ms. Keral Mehta a/w. Sailee Dhayalka i/b. Samvad Partners, for the
Petitioner.

Mr. K.V. Saste, APP for the Respondent No.1/State.

Mr. Aditi Kathekar i/b Mr.Tabish Mooman, for the Respondent No. 2

**CORAM : SUNIL B. SHUKRE AND
M.M. SATHAYE, JJ.
Date : 26th APRIL, 2023.**

JUDGMENT (Per M.M.SATHAYE, J.):

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 1/State. Learned Counsel for Respondent No.2 /complainant waives service. Taken up for final hearing with consent of parties.

2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Criminal Procedure Code, the Petitioner / accused is seeking to quash by consent, a crime registered under FIR No. 175 of 2019 registered against him with Colaba Police Station, Mumbai, for offences punishable under Sections 420 of the Indian Penal Code and 66 (c) (d) Information Technology Act, 2000.

3. Learned counsels for the Petitioner & Respondent No. 2/ complainant jointly state that now the matter is amicably settled and

Respondent No. 2 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime in this petition.

4. Perusal of the FIR dated 19th October, 2019 shows that it is alleged by Respondent No. 2 that he had ordered a pair of shoes from Flipkart Application accessing Decathlon website. It is alleged that the said shoes, on delivery, were found defective and therefore, he decided to return it since it was in warranty. Accordingly, it is stated that he contacted the company on E-mail, when a mobile number was provided claiming that the same is Customer Care number for Decathlon company, which was contacted by the Respondent No. 2. It is alleged that from the said mobile number, one more mobile number was given alleged to be of customer care of Bluedart services. It is contended that when Respondent No. 2 contacted the said mobile, his details were taken and he was sent a link for payment of nominal amount of Rs. 3 for timely delivered, which the Respondent No. 2 clicked and he was prompted to supply his details including UPI PIN. Thereafter Respondent No. 2 received 3 messages by which he came to know that his bank account was debited with 5

entries each amounting to Rs. 19,999/-. The Respondent No. 2 thereafter immediately contacted his bank and the UPI services were blocked. In such circumstances the impugned FIR was filed. It appears that on the investigation the Petitioner is accused.

5. Perusal of the consent Affidavit now affirmed and executed by Respondent No. 2 on 25th April, 2023 shows that during the course of investigation, the present Petitioner was arrested and produced before the Magistrate and during the Bail Application hearing, the amount which was lost by Respondent No. 2 has been received back by him Respondent No. 2 has stated that he therefore has no objection of quashing of impugned FIR.

6. Respondent No. 2 / complainant was personally present in Court on 3rd April 2023 and was identified by his advocate. On that day on our inquiry, he has stated that he has settled the matter voluntarily, without any pressure or coercion.

7. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is

private and civil in nature arising out sell/purchase of online product leading to complainant being cheated. However parties have now settled the dispute as money is recovered. As such, this Court is of the considered view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed and the crime is quashed.

8. In the net result, we pass following order:

i] Criminal Writ Petition is allowed, in the terms of prayer clause (b), which reads as under:

b) This Hon'ble Court may be pleased to quash F.I.R. No. 175/2019 registered with from Colaba Police Station, in the interest of justice, qua the Petitioner."

ii] Subject to condition that Petitioner and Respondent No.2 shall deposit an amount of Rs.1,000/- each in the account of Maharashtra State Legal Services Authority, Mumbai, within a period of four weeks from today, failing which this order shall stand cancelled automatically and this petition shall be placed before this Court for further direction.

iii] The Registrar (Judicial-II) to verify the compliance and close the matter, if the compliance is made.

iv] Rule is made absolute in above terms.

v] Parties to act on an authenticated copy of this order.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)