

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 371 OF 2018**

Yashoda Gowda & Anr. ... Applicants

V/s.

The State of Maharashtra And Anr. ... Respondents

WITH

CRIMINAL APPLICATION NO. 372 OF 2018

Urmish Manharlal Udani ... Applicant

V/s.

The State of Maharashtra And Anr. ... Respondents

Mr. Akhilesh Dubey a/w Mr. Vagish Mishra i/b Law Counsellors for Applicants.

Mr. Ameet A. Palkar, APP for Respondent No.1-State.

Mr. Irfan A. Shaikh for Respondent No.2.

Mrs. Kinjal Bhavesh Gandhi, Respondent No.2 in-person, through Video Conferencing.

Mr. Sanjay B. Sadigale, A.PI., E.O.W.-II, Navi Mumbai.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 12th DECEMBER, 2023

P.C. :

1) Leave to amend to incorporate challenge to Special Case No.200 of 2022 pending on the file of the learned Special Judge (MPID), Thane by way of adding prayer clause (a-1) in both the applications, granted. Amendment be carried out forthwith and in any event, during the course of

the day.

2) These applications under Section 482 of the Code of Criminal Procedure are filed by accused in FIR No.11 of 2018 registered with Vashi Police Station, Navi Mumbai under Sections 420, 407 and 34 of the Indian Penal Code read with Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and Chargesheet No.200 of 2022 filed before the learned Special Judge (MPID), Thane, for quashing with consent of Respondent No.2, informant.

3) Mr.Dubey, learned counsel for the Applicants submitted that, the Applicants have not only settled the matter with Respondent No.2, the informant, but also with all the alleged victims in the present crime. That, there are in all eight victims in the present crime, including Respondent No.2. He submitted that, in view of the deliberation in the Court on earlier occasion, the Applicants have settled monetary claims of all other victims. That, the Applicants and Respondent No.2 along with other five victims, whose names are mentioned in para-2 of the Consent Terms have executed the Consent Terms dated 25th October, 2023. That, in pursuance of the said Consent Terms, the Applicants have repaid the entire amount to all six persons. He submitted that likewise, claims of other two victims have also been settled by the Applicants. He on instructions from all the Applicants, makes a statement that, the Applicants will abide with terms and conditions of the Consent Terms without any demur or protest. The said statement

made on behalf of the Applicants is accepted as an undertaking given by the Applicants to this Court.

3.1) Learned counsel for the Applicants tendered across the bar, original Consent Terms dated 25th October, 2023 alongwith its annexure/chart and Affidavits in support of the Consent Terms of the six victims.

3.2) In the affidavits, all the victims have admitted of amicable settlement and execution of the Consent Terms. They have given their consent for quashing of the crimes in question.

4) Learned Advocate for Respondent No.2 on instructions, admitted execution of the Consent Terms dated 25th October, 2023 and Affidavits in support of the Consent Terms dated 20th July 2023. He also asserts that, the other five victims mentioned para-2 of the Consent Terms have affirmed the respective Affidavits in support of the Consent Terms.

5) Respondent No.2 is present through Video Conferencing and upon being asked, she reiterated the contents of her Affidavit dated 20th July, 2023 and execution of the Consent Terms dated 25th October 2023. She has also given her 'no objection' for quashing of the present crime in question.

6) Learned APP on instructions of Mr. Sanjay B. Sadigale, Assistant Police Inspector, attached to the Economic Offences Wing-II, Navi Mumbai, submitted that, there are in all eight victims in the present crime, including Respondent No.2 and no other victim is left from being settled with its dues

by the Applicants.

7) In view thereof, we are inclined to quash FIR No.11 of 2018 registered with Vashi Police Station, Navi Mumbai and Chargesheet No.200 of 2022 filed before the learned Special Judge (MPID), Thane.

8) As we expressed our opinion for quashing of said FIR No.11 of 2018 registered with Vashi Police Station, Navi Mumbai and Chargesheet No.200 of 2022 filed before the learned Special Judge (MPID), Thane, learned counsel Mr. Dubey, appearing for Applicants on instructions submitted that, the Applicants will pay a cost of Rs.2,00,000/- each totalling to Rs.8,00,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the present Order on the Official Website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

9) We therefore direct the Applicants to pay a cost of Rs.8,00,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

9.1) Details of the bank account for payment of cost are as under :-

Account Name :- Advocates Association of Western
India Generation Next.

Account Number :- 000110110007807.

Bank Name :- Bank of India.

Branch Name :- Mumbai Main.

IFSC Code :- BKID0000001.

9.2) Applicants to deposit the said cost of Rs.8,00,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

10) In view of the above and subject to payment of cost, both the Applications are allowed in terms of prayer clauses (a) and (a-1).

11) It is made clear that, if the cost is not paid within stipulated period as mentioned herein abovenoted Applications shall stand revived automatically and in that event, the trial Court will proceed with the said Special Case No.200 of 2022 expeditiously.

12) List the Applications on board on 22nd January, 2024, under caption 'for reporting compliance' of present Order.

13) Learned Advocate appearing for Respondent No.2 and other victims on instructions, submitted that, Applicants have already deposited an amount of Rs.1,22,25,349/- in the Registry of this Court towards part compliance of the consent terms. That, the six victims mentioned in paragraph-2 of the consent terms be permitted to withdraw the said amount after completing the necessary procedure in that behalf including giving indemnity bond.

14) In view thereof, we direct the concerned Assistant Registrar of this Court to return the amount mentioned in the chart annexed to the

Consent Terms dated 25th October, 2023 to the respective victims therein, within a period of two weeks of filing an application either individually or jointly by the said six victims with Registry of this Court.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

Digitally signed
by RAJESH
VASANT
CHITTEWAN
Date:
2023.12.26
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