

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 583 OF 2023**

Gautam Chowgule & Anr.

.....Applicants

Vs.

The State Of Maharashtra & Ors.

.....Respondents

Mr. Umang Mehta i/by Dhruve Liladhar & Co. for the Applicants.

Mrs. Sangeeta Shinde APP, for the Respondent-State.

Mr. Rajkumar Mishra i/by M. Rajkumar & Co. for the Respondent Nos. 2 and 3.

**CORAM : A. S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.****DATE : 23rd AUGUST, 2023.****PC:-**

1) Leave to amend to incorporate challenge to C.C. No. PW/6000230/2023 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai. Amendment be carried out forthwith by way of adding prayer clause (a-1).

2) Applicants, accused in C.C. No. PW/6000230/2023 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai. arising out of C.R. No.441 of 2021 registered with Chunabhatti Police Station, Mumbai under Sections 341, 342, 143, 147, 149, 323 and 504 of the Indian Penal Code, have filed Application for quashing of the said case with the consent of Respondent No.2, the informant.

3) Learned Advocate for the Applicants submitted that, the Applicants and Respondent No.2 have settled their disputes and differences

and have executed Consent Terms dated 15th September, 2022 before the Appellate Court of Small Causes at Mumbai in Appeal No.228 of 2021 in L.D. Suit No.75 of 2021. That, in pursuance of the said Consent Terms dated 15th September, 2022 and the terms and conditions mentioned therein, present Application is filed.

He therefore prayed that, the said case may be quashed by allowing the present Application.

4) Learned counsel for the Respondent Nos.2 and 3 submitted that, the Respondent No.3 being an Authorized Officer of Respondent No.2, has filed an Affidavit dated 24th July, 2023 duly affirmed before the Assistant Registrar of this Court. In the said Affidavit, Respondent No.3 has admitted execution of Consent Terms dated 15th September, 2022 before the Appellate Bench of Small Causes Court at Mumbai. In paragraph No.8 thereof, Respondent No.3 has given his consent for quashing of crime in question.

5) In view thereof, we are inclined to quash C.C. No. PW/6000230/2023 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai. arising out of C.R. No.441 of 2021 registered with Chunabhatti Police Station, Mumbai.

6) As we expressed our opinion for quashing of said C.C. No. PW/6000230/2023, learned Advocate for Applicants on instructions submitted that, the Applicants will pay a cost of Rs.25,000/- each, totalling

to Rs.50,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

7) We direct the Applicants to pay a cost of Rs.25,000/- each totalling to Rs.50,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

8) Applicants to deposit the said cost of Rs.25,000/- each totalling to Rs.50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

9) In view of above and subject to payment of cost, Application is allowed in terms of prayer clauses (a) and (a-1).

10) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Application shall stand revived automatically and in that event, the trial Court will proceed with the said C.C. No. PW/6000230/2023 expeditiously.

11) List the Application on 13th September, 2023 under caption '*for reporting compliance*' of present Order.

12) All the concerned to act on the basis of an authenticated copy of this Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)