

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

CRIMINAL WRIT PETITION NO. 1897 OF 2022

Umashankar Shyamlal Agarwal & Anr. ...Petitioners
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Subir Sarkar i/b Mr. Rishi Murarka, for the Petitioners.
Mr. J. P. yagnik, A.P.P for the Respondent-State.
Mr. Piyush Toshniwal i/b. Mr. Aashish Pawar for the Respondent
No.2.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ**

DATED : 28th JULY, 2023

P.C.:

1. The offence being Crime No. 139 of 2022 punishable u/s. 406, 420, 465, 467, 468, 471, 506, 120-B r/w. 34 of IPC came to be registered against the Petitioners on 16/03/2022 after having defrauded / cheated the Respondent No. 2/Complainant in the matter of business transaction *qua* the trading of clothes. It is alleged in the FIR that the Complainant was cheated by the Petitioners for an amount of Rs.69,42,101/-.

2. After the offence was registered, the parties hereto have entered into a negotiations and reached to the Consent Terms. The Consent Terms executed *inter se* between the Petitioners and the

Respondent No. 2/Complainant on 04/07/2023 tendered during the course of the hearing are taken on record and marked as X for identification. The copy of the aforesaid Consent Terms also annexed with the Consent Affidavit tendered by the Respondent No. 2/Complainant which has stated that the Accused persons have paid the Rs.10,00,000/- (two Demand Drafts of Rs.5,00,000/- each) towards full and final settlement of dues. Learned Counsel for the Respondent No. 2 acknowledges the receipt of the Demand Drafts before the Court upon instructions from the Respondent No. 2/Complainant who is present in the Court.

3. In the aforesaid background, if we appreciate the Consent Terms which are placed on record in the form of Consent Affidavit, it can be inferred that the Respondent No. 2/Complainant has given consent for quashing of the offence out of his own free will and having regard to the receipt of the amount of Rs.10,00,000/-.

4. In the aforesaid backdrop, having regard to the law laid down by the Apex Court in the matter of **Gian Singh vs. State of Punjab and Another** reported in **(2012) 10 SCC 303**, we deem it appropriate to allow the prayer for quashing.

5. It is hereby ordered that the offence being Crime No. 139 of 2022 punishable u/s. 406, 420, 465, 467, 468, 471, 506, 120-B

r/w. 34 of IPC with the Respondent-Police Station is hereby quashed in view of the consent extended by the Respondent No. 2/Complainant through the Consent Affidavit. The quashing is subject to payment of cost of Rs.25,000/- **(each)** to be paid to the Police Welfare Fund for the State of Maharashtra within the period of four weeks from today.

6. It shall be the duty of the parties to place on record the compliance as to the payment of cost within the time aforesaid stipulated failing which the order allowing consent by quashing shall stand revived and the matter shall be taken up for hearing.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)