

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

WRIT PETITION NO.2817 OF 2022

Nitin Jayram Parab
Vs.

..... Petitioner

The State of Maharashtra & Ors.

..... Respondents

.....
Mr. Sanjeev Sawant, a/w. Mr. B.K. Barve, i/b. B.K. Barve & Co.,
for the Petitioner.

Mr. J.P. Yagnik, APP, for Respondent State.

Mr. Padmakar Gorad, i/b. S.G. Legal & Associates, for Respondent
No.2.

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

DATE : 7 JUNE 2023.

Oral Judgment (Per Sharmila U. Deshmukh, J.) :

Rule. Rule made returnable forthwith by consent of parties. Learned APP waives for the Respondent State. Learned Counsel for Respondent No.2 waives for the Respondent No.2.

2. The Petitioner has approached this Court seeking to quash and set aside the FIR bearing C.R. No.384 of 2019, registered with Dattawadi Police Station, Dattawadi Pune City, Dist. Pune, for the alleged offences punishable under Sections 406, 409, 420 and 120-B of the Indian Penal Code.

3. Heard Mr. Sanjeev Sawant, learned Counsel for the

Petitioner, Mr. J.P. Yagnik, learned APP, for the Respondent State and Mr. Padmakar Gorad, learned Counsel for Respondent No.2.

4. Learned Counsel for the Petitioner submits that the Petitioner was an employee of the Respondent No.2/Complainant which was a Non-Banking Financial Company. He would submit that the Petitioner was an Assistant Manager at the Head Office in Mumbai and, during his employment with the Respondent No.2 Company, the performance of the Petitioner was reviewed and acclaimed by the Respondent No.2. He would further submit that, with effect from 13th July 2020, he had tendered his resignation letter, which was approved by the Respondent No.2 and the Petitioner was relieved from his duty on 5th August 2020. He would further submit that the Respondent No.2, while relieving the Petitioner has issued certificate certifying that the Petitioner was, during his employment with the Respondent No.2, to be honest, sincere and dedicated in his assignment. He would further submit that the concerned FIR was lodged on 22nd August 2019, about which he became aware for the first time in the month of November 2020. He would further submit that upon, enquiry with the Respondent No.2, it was informed to him vide e-mail dated 20th November 2020, by Senior Vice President, that the Petitioner's name was inadvertently added by the Police at the time of lodging of the FIR, as they had taken the names of the employees of the Respondent No.2 and that steps will be taken to remove his name from this matter, as he is not involved. This confirmation e-mail is annexed at page 50 of the writ petition. He

would further submit that, even on merits, the allegations in the FIR is of forged and fabrication of documents for the purpose of inducing the Respondent No.2 to disburse the housing loan and the admitted position is that the Petitioner did not have any authority to sanction the alleged loan nor was concerned with the loan, which was sanctioned from Pune.

5. Learned Counsel appearing for the Respondent No.2 admits the contents of the e-mail dated 20th November 2020 and would submit that the Respondent No.2 had no objection to the quashing of the FIR for the Petitioner.

6. We have appreciated the submissions of the parties and have perused the papers with the assistance of the learned Counsel appearing for the parties. Perusal of the FIR indicates that an allegation is made that the employees of the Respondent No.2 had forged and fabricated documents in respect of certain properties for the purpose of inducing the Respondent No.2, which is a Non-Banking Financial Institution to disburse the housing loan. It is alleged that, along with the Petitioner, five other employees, under whose supervision the loans were sanctioned and disbursed, are responsible for the alleged offences. The undisputed position is that the Petitioner was in no way concerned with the sanction of the loans, as the loans were sanctioned from Pune and the Petitioner was employed as Assistant Manager in the Head Office at Mumbai for handling profile of Credit upto the year 2018 onwards. The offence is alleged to have been committed

between the period 3rd October 2017 to 20th October 2017. Perusal of the FIR indicates that there is no specific role, which has been attributed to the present Petitioner and this fact, coupled with the admission by the Senior Vice President of the Respondent No.2, that the Petitioner's name was inadvertently added by the Police at the time of lodging of the FIR, indicates that the Petitioner has been arraigned as an accused inadvertently.

7. The present petition has been filed under the provision of Article 226 of the Constitution of India r/w 482 of the Criminal Procedure Code and this Court, in exercise of the said jurisdiction, has the discretion to quash and set aside the proceeding in event the same is necessary in the interest of justice and to prove the abuse of process in any court.

8. Considering the submissions above, we find that the name of the Petitioner was inadvertently added and, as such, no fruitful purpose would be achieved as the Respondent No.2 itself have admitted this position and to compel the Petitioner to face the trial would be a travesty of justice.

9. In view of the above, the writ petition is allowed. Rule is made absolute with no orders as to costs. The FIR bearing C.R. No. 384 of 2019, registered with Dattawadi Police Station, against the Petitioner, is hereby quashed and set aside.

SHARMILA U. DESHMUKH, J.

NITIN W. SAMBRE, J.