

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3894 OF 2023**

Shiva Nandan Nadar

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Omprakash Parihar for Petitioner.

Ms. Mahalakshmi Ganpathy, A.P.P. for Respondent No.1-State.

Mr. Arvindkumar R. Maurya for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 22nd December 2023.****P.C. :**

1) By the present Petition under Article 226 of the Constitution of India, the Petitioner, accused in CR No. 0263 of 2023 dated 16th April 2023 registered with M.I.D.C. Police Station, Mumbai, under Section 406 and 420 of Indian Penal Code has prayed for quashing of the said crime with consent of Respondent No.2, the informant.

2) At the outset, it is to be noted here that, the Petitioner is unsuccessful up to the Hon'ble Supreme Court in securing pre-arrest bail in the present crime. The Hon'ble Supreme court by its Order dated 23rd June 2023 was pleased to dismiss the Special Leave to Appeal (Crl.) No. 7405 of 2023 preferred by the Petitioner for pre-arrest bail.

2.1) The Hon'ble Supreme Court in the said Order dated 23rd June 2023 has observed as under :-

“Needless to observe that if the petitioner makes an application seeking regular bail, the same shall be considered expeditiously on its own merits.”

3) In view of the observations made by the Hon'ble Supreme Court as noted above, on an earlier occasion the learned Advocate for the Petitioner had submitted before this Court that, the Petitioner and Respondent No.2 have settled their disputes and differences amicably and the crime in question may be quashed. He submitted that, however taking into consideration the fact that, the pre-arrest bail application of the Petitioner has been dismissed by the Hon'ble Supreme Court, the Petitioner will surrender before this Court on the date of hearing of the present Petition and appropriate Orders in the interest of justice may be passed.

4) Accordingly, today the Petitioner appeared before this Court and surrendered in the custody of this Court. Thereafter we heard the learned Advocate for the Petitioner and learned Advocate for Respondent No.2.

4.1) Learned Advocate for the Petitioner submitted that, the Petitioner and Respondent No.2 have settled their matter amicably and have executed Consent Terms dated 21st December 2023. That, the Respondent No.2 has given his consent for quashing of the present crime, as the Petitioner has agreed to pay the entire amount as alleged in the Petition to

him. He submitted that, the demand drafts as mentioned in para (III) of the Consent Terms have been handed over to the Advocate for the Respondent No.2 today in the Court. He therefore prayed that, the present crime may be quashed and appropriate directions as far as the custody of the Petitioner is concerned may be issued.

4.2) Learned Advocate for Respondent No.2 tendered across the bar his consent Affidavit dated 21st December 2023 duly affirmed before a Notary Public. To the said Affidavit, Consent Terms dated 21st December 2023 are annexed. In his Affidavit, the Respondent No.2 has admitted, execution of Consent Terms, receipt of part payment at the time of execution of Consent Terms and receipt of balance payment through demand drafts. He has given his consent for quashing of the present crime in view of the amicable settlement between the parties.

5) In view thereof, we are inclined to quash CR No. 0263 of 2023 dated 16th April 2023 registered with M.I.D.C. Police Station, Mumbai.

6) As we expressed our opinion for quashing of said CR No. 0263 of 2023 dated 16th April 2023 registered with M.I.D.C. Police Station, Mumbai, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.50,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of Order. The said statement is accepted as an undertaking given to this Court.

7) We therefore direct the Petitioner to pay a cost of Rs.50,000/- 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.

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.

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

8) As we have quashed the crime in question, the Petitioner hereinafter need not be kept in judicial custody and is accordingly released as a free citizen.

9) In view of above and subject to payment of cost, Petition is allowed in terms of prayer clause (b).

10) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the Investigating Officer shall complete the investigation of

the present crime expeditiously.

11) List the Petition on board on 17th January 2024, under caption
'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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SHIVAHAR
KUMBHAKARN

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by OMKAR
SHIVAHAR
KUMBHAKARN
Date:
2023.12.26
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