

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

CRIMINAL WRIT PETITION NO. 2382 OF 2023

Tushar Balkrishna Gangan	...	Petitioner
Versus		
State of Maharashtra & Anr.	...	Respondents

Mr. Manuj Borkar i/by Prasad Borkar for the Petitioner.
Mr. Mutahhar Khan i/by Moinuddin Choudhari for the Respondent No.2.
Mr. J. P. Yagnik, APP for the Respondent No.1-State.

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

DATE : 2nd AUGUST, 2023

P.C. :-

1. The prayer is for quashing of the FIR No. 1327 of 2022 for the offence punishable under Sections 420, 406, 467, 468, 471 read with 34 of the Indian Penal Code.

2. For securing no objection certificate, the petitioner along with the co-accused has accepted the amount, however, neither the no objection certificate, as promised was made available to the complainant, nor the amount was returned, as such the offence in question.

3. The respondent No.2 has tendered consent affidavit. According to him, the amount involved in the offence being Rs.9,28,000/- is received by the respondent No.2 and that being so, having regard to the

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business relation, he has decided not to continue the prosecution against the petitioner.

4. The respondent No.2 is present in the Court who is identified by his lawyer so also by the learned APP from his Aadhar Card.

5. From the forgoing, it is required to be appreciated that there is business relation between the petitioner and respondent No.2 and the transaction which was not honoured, is already satisfied by the petitioner by returning the payment to the respondent No.2.

6. In this background, having regard to the stand taken by the respondent No.2 *qua* the petitioner, we are of the view that no purpose would be served by keeping the prosecution pending against the petitioner, particularly, having regard to the law laid down by the Hon'ble Supreme Court in ***Gian Singh v/s. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. v/s. State of Punjab and Anr.***². That being so, the present proceedings stand allowed in terms of prayer clause (a).

7. Writ Petition is disposed of in above terms, subject to payment of cost of Rs.15,000/- by the petitioner to the High Court Legal Services, within a period of three weeks.

8. If the cost is not paid within the stipulated period, the petition shall be placed before this Court on 30th August 2023.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

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