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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4705 OF 2022

Afzal Suleman Mansoori.

...Petitioner.

V/s.

The State of Maharashtra & Another.

...Respondents.

Mr. Shobit Shukla i/b Mr.Ashok Pande for the Petitioner.

Mrs. M. H. Mhatre, APP for the Respondent-State.

Mr. Hasan Mushatfa i/b Negandhi. Shah & Himayatullah for Respondent No. 3.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

DATE : 5th September, 2023.

P. C. :

1. Leave to amend to incorporate challenge to C.C.No. 389/PW/2022 pending on the file of Metropolitan Magistrate, 69th Court, Mazgaon, Mumbai granted. Necessary amendment be carried out during the course of the day.

2. Petitioner, accused in C.C.No. 389/PW/2022 pending on the file of Metropolitan Magistrate, 69th Court, Mazgaon, Mumbai arising out of C.R.No.6 of 2021 registered with Nagpada Police Station, Mumbai, under sections 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code, has invoked jurisdiction of this Court under Article

226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, 1973 for quashing of the said case with the consent of Respondent No.3, the victim.

3. Learned Advocate for the Petitioner submitted that, the Petitioner and Respondent No.3 have settled the matter amicably out of Court and the Respondent No.3 has given his consent for quashing of the said case.

4. Learned advocate for Respondent No.3 tendered across the bar his Affidavit dated 4th September 2023 duly affirmed before a Notary Public. It is stated therein that, the Petitioner and Respondent No.3 have filed Consent Terms before the Arbitrators and all their disputes pertaining to the partnership firm, namely, Insha Enterprises are settled. In Paragraph No.7 thereof, Respondent No. 3 has given his consent and no objection for quashing of the said case / crime.

4.1 Respondent No.3 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 4th September 2023 and his 'no objection' for quashing the case / crime in question.

5. In view thereof, we are inclined to quash the said C.C.No. 389/PW/2022 pending on the file of Metropolitan Magistrate, 69th

Court, Mazgaon, Mumbai arising out of C.R.No. 6 of 2021 registered with Nagpada Police Station.

6. As we expressed our opinion for quashing of the said case, i.e., C.C.No.389/PW/2022 pending on the file of Metropolitan Magistrate, 69th Court, Mazgaon, Mumbai arising out of C.R.No. 6 of 2021 registered with Nagpada Police Station, learned Advocate for the Petitioner on instructions submitted that, Petitioner will pay a cost of Rs.50,000/- to the Central Police Welfare Fund within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

7. We direct the Petitioner to pay a cost of Rs.50,000/- to the Central Welfare Fund 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:-

Bank Name	: - Axis Bank Limited.
Branch Name	: - Worli, Mumbai(MH), Mumbai-400 025
Account Name	: - Central Police Welfare Fund
Account Number	: - 914010029005759
IFSC Code	: - UTIB0000060

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. In view of above and subject to payment of cost, petition is allowed in terms of prayer clauses (b) and (b1).

9. It is made clear that, if the cost is not paid within the stipulated period as mentioned above, the petition shall stand revived automatically and in that event, the trial Court will proceed with the said case expeditiously.

10. List the petition on board on 3rd October 2023, under caption 'for reporting compliance' of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)