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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2539 OF 2023**

Mr. Shamsuddin Abdulla Parkar

....Petitioner.

V/s

The State of Maharashtra & Anr.

.... Respondents.

Mr. Tejesh Dande a/w Mr. Vishal Navare a/w Chinmay Deshpande for the Petitioner.

Mrs. S.S. Shinde, APP for the Respondent-State.

Mr. Abhishek Gupta for Respondent No.2.

Mr. Hasan Parkar for Respondent No.2 in person on VC present.

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

**DATED : AUGUST 03, 2023
(In Chamber at 5.00 P.M. through VC)**

P.C.:

1] Respondent No.2 claims to be the owner of immovable property at Village Mirzoli, Taluka Chiplun, District Ratnagiri. Respondent No.2 having shifted to United Kingdom and later on accepted citizenship of United Kingdom has given charge of managing immovable property to the Petitioner Shamsuddin Abdulla Parkar who is an accused in the case in hand. The said accused, without consent of Respondent No.2, the owner of the property, by practicing fraud and forgery, transferred the entire property of Respondent No.2. Aforesaid conduct on the part

of the Petitioner has given rise to registration of offence being Crime No. 280 of 2017 on 06/12/2017 under Sections 419, 420, 465, 467, 468, 471, 474 of the Indian Penal Code.

2] Having regard to blood relation with the present Petitioner, who is brother-in-law of Respondent No.2, said Respondent has decided to extend consent for quashing the aforesaid criminal proceedings in which Petitioner is already chargesheeted. True copy of the consent affidavit sworn before the Consulate General of India, Birmingham (U.K.) is placed on record. The copy of consent affidavit in the form of reply tendered before the Court of Judicial Magistrate, First Class, Chiplun in Regular Case No.129 of 2018 i.e. prosecution in the present case against the Petitioner is also produced. The said affidavit speaks of extending consent for quashing of the present offence. Clause 8 of the said affidavit states that Petitioner and the Respondent-complainant have amicably settled the matter and Respondent-complainant has forgiven all ill-deeds of the Petitioner by accepting his apology. Respondent No.2 has appointed Mr Sudam Tukaram Gawde as his Power of Attorney who is authorized to swear an affidavit, thereby

extending his consent. Counsel for the Petitioner, during the course of hearing, has tendered the said affidavit of Mr. Sudam Tukarm Gawde who is present in Court. The said affidavit is taken on record.

3] Respondent No.2 who is connected through VC has witnessed the entire proceedings including dictation given by this Court and has agreed to what has been observed hereinabove.

4] In this backdrop, what can be noticed is, having regard to the stand taken by Respondent No.2-complainant in consent affidavit tendered by the Power of Attorney Holder of Respondent No.2 extending consent for quashing, no purpose will be achieved by keeping the present prosecution pending against the Petitioner.

5] In this backdrop, having regard to the law laid down by the Apex Court in the matter of *Gian Singh vs. State of Punjab & Anr.*, reported in **(2012) 10 SCC 303** and in the matter of *Narinder Singh & Ors vs State of Punjab & Anr.*, reported in **(2014) 6 SCC 466**, we deem it appropriate to allow the present Petition in terms of prayer clause (c).

However as the Petitioner-accused has made use of public machinery at the cost of public exchequer, we deem it appropriate to saddle the accused with costs of Rs 50,000/- to be deposited with Superintendent of Police Rat. & Welfer Find Rantnagiri (State Bank of India, Ratnagiri - IFSC SBIN0000467 A/c No.30951875536) within a period of four weeks from today and in compliance to place on record receipt to that effect within the aforesaid period, failing which proceedings for quashing shall automatically stand revived and Court will be constrained to initiate appropriate proceedings for taking action against the Petitioner.

6] Petition accordingly stands allowed with the above observation.

(R. N. LADDHA, J.)

(NITIN W. SAMBRE, J.)