

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 943 OF 2023**

Anand Gupta & Ors.

.....Applicants

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Gaurav Parkar for the Applicants.

Mr. Y.M. Nakhwa APP for the Respondent-State.

Adv. Gargi Bhagwat a/w. Adv. Prajkata Sakpal and Adv. Yohan Mehta i/by
M/s. Divekar Bhagwat & Co. for the Respondent No.2.**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 15th DECEMBER, 2023.****P.C.:-**

1) Applicants, accused in PW Case No.4700367 of 2020 pending on the file of Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai arising out of C.R. No.68 of 2018 dated 2nd August, 2018 registered with Economic Offences Wing, Mumbai, under Section 420 read with Section 34 of the Indian Penal Code, have filed present Application under Section 482 of Cr.P.C. for quashing of the said case, with the consent of Respondent No.2, the informant.

2) Mr. Parkar, learned Advocate for the Applicants submitted that, the Applicants and Respondent No.2 have settled their differences and disputes amicably and have executed Consent Terms dated 22nd June, 2023

in Company Petition No.1251 of 2020, before the National Company Law Tribunal, Mumbai Bench. The said Consent Terms are annexed at page No.158 to the Application. In view of paragraph No.9 of the said Consent Terms, present Application is filed for quashing of the said crime with consent of Respondent No.2. He therefore prayed that, the crime in question may be quashed and by allowing present Application.

3) Ms. Bhagwat, learned Advocate appearing for the Respondent No.2 on instructions conceded to the fact of execution of Consent Terms dated 22nd June, 2023 in Company Petition No.1251 of 2020 before the National Company Law Tribunal, Mumbai Bench. She submitted that, the Respondent No.2 has filed an Affidavit-in-reply dated 11th December, 2023, duly affirmed before a Notary Public. That, execution of Consent Terms before NCLT, Mumbai has been admitted in the said Affidavit. That, the son of Respondent No.2 has received the amount agreed by and between the parties in the said Consent Terms. In paragraph No.8 thereof, the Respondent No. 2 has given his no objection for quashing of present case.

3.1) Ms. Bhagwat, learned Advocate on instructions from Respondent No.2 reiterates the contents of the said Affidavit-in-reply dated 11th December, 2023 and also his 'no objection' for quashing of the crime in question.

4) In view of the above, we are inclined to quash PW Case No.4700367 of 2020 pending on the file of Additional Chief Metropolitan

Magistrate, 47th Court, Esplanade, Mumbai.

4.1) As we expressed our opinion for quashing of said PW Case No.4700367 of 2020 pending on the file of Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, learned Advocate for the Applicants on instructions submitted that, the Applicants will pay a cost of Rs.1,00,000/- each totalling to Rs.4,00,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

4.2) As the Respondent No.2 has received the entire amount as agreed by the Applicants due to lodgment and investigation of the present crime, learned Advocate for the Respondent No.2 on instructions submitted that, the Respondent No.2 will also pay a cost of Rs.2,00,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from today. The said statement is accepted as an undertaking given to this 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.

4.3) We therefore direct the Applicants and the Respondent No.2 to pay cost of Rs.4,00,000/- and Rs.2,00,000/- respectively to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the Order on the official website of Bombay High Court.

4.4) Applicants and the Respondent No.2 to pay the said cost within stipulated period as noted above and submit the receipts of the same in the Registry of this Court.

5) In view of the above and subject to payment of cost by Applicants and Respondent No.2, Application is allowed in terms of prayer clauses (a) and (b).

6) It is made clear that, if the cost is not paid by either of the parties within stipulated period as mentioned above, the Application shall stand automatically revived and in that event, the trial Court will proceed with the case expeditiously.

7) List the Application on 15th January, 2024 under the caption '*for reporting compliance*' of present Order.

8) All the concerned to act on the basis of an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)