

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3061 OF 2022**

- | | | |
|-----------------------------------|---|-------------|
| 1. M/s Hi Rock Construction Co. |] | |
| 2. Sangeeta Heeralal Doshi |] | |
| 3. Hitesh Hirachand Dhokad |] | |
| 4. Sanjay Hirachand Dhokad |] | |
| 5. Heeralal Meghraj Doshi |] | Petitioners |
| Vs. | | |
| 1. State of Maharashtra |] | |
| 2. Economic Offences Wing |] | |
| Unit - VIII, Mumbai. |] | |
| 3. Viraj Rasiklal Maniar |] | |
| 4. Hi Rock Construction Pvt. Ltd. |] | Respondents |

a/w
**INTERIM APPLICATION NO.3092 OF 2022
IN
WRIT PETITION NO.3061 OF 2022**

Milapchand H. Jogani	]	Applicant
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IN THE MATTER BETWEEN:

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|---------------------------------|---|
| 1. M/s Hi Rock Construction Co. |] |
| 2. Sangeeta Heeralal Doshi |] |

(corrected vide order dated 21.02.2023 in bold)

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|----------------------------|---|-------------|
| 3. Hitesh Hirachand Dhokad |] | |
| 4. Sanjay Hirachand Dhokad |] | |
| 5. Heeralal Meghraj Doshi |] | Petitioners |

Vs.

- | | | |
|-----------------------------------|---|-------------|
| 1. State of Maharashtra |] | |
| 2. Economic Offences Wing |] | |
| Unit - VIII, Mumbai. |] | |
| 3. Viraj Rasiklal Maniar |] | |
| 4. Hi Rock Construction Pvt. Ltd. |] | Respondents |

a/w

INTERIM APPLICATION NO.3093 OF 2022
IN
WRIT PETITION NO.3061 OF 2022

- | | | |
|---------------------------|---|-----------|
| Pankhiben Manohar Kanungo |] | Applicant |
|---------------------------|---|-----------|

IN THE MATTER BETWEEN:

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|---------------------------------|---|-------------|
| 1. M/s Hi Rock Construction Co. |] | |
| 2. Sangeeta Heeralal Doshi |] | |
| 3. Hitesh Hirachand Dhokad |] | |
| 4. Sanjay Hirachand Dhokad |] | |
| 5. Heeralal Meghraj Doshi |] | Petitioners |

Vs.

- | | | |
|-----------------------------------|---|-------------|
| 1. State of Maharashtra |] | |
| 2. Economic Offences Wing |] | |
| Unit - VIII, Mumbai. |] | |
| 3. Viraj Rasiklal Maniar |] | |
| 4. Hi Rock Construction Pvt. Ltd. |] | Respondents |

a/w
INTERIM APPLICATION NO.3505 OF 2022
IN
WRIT PETITION NO.3061 OF 2022

Deepak Vardhan] Applicant

IN THE MATTER BETWEEN:

1. M/s Hi Rock Construction Co.]

2. Sangeeta Heeralal Doshi]

3. Hitesh Hirachand Dhokad]

4. Sanjay Hirachand Dhokad]

5. Heeralal Meghraj Doshi] Petitioners

Vs.

1. State of Maharashtra]

2. Economic Offences Wing]
Unit - VIII, Mumbai.]

3. Viraj Rasiklal Maniar]

4. Hi Rock Construction Pvt. Ltd.] Respondents

a/w
INTERIM APPLICATION NO.3506 OF 2022
IN
WRIT PETITION NO.3061 OF 2022

Jitesh Bafna] Applicant

IN THE MATTER BETWEEN:

1. M/s Hi Rock Construction Co.]

2. Sangeeta Heeralal Doshi]

3. Hitesh Hirachand Dhokad]

4. Sanjay Hirachand Dhokad]

5. Heeralal Meghraj Doshi	]	Petitioners
Vs.		
1. State of Maharashtra	]	
2. Economic Offences Wing	]	
Unit - VIII, Mumbai.	]	
3. Viraj Rasiklal Maniar	]	
4. Hi Rock Construction Pvt. Ltd.	]	Respondents

a/w
INTERIM APPLICATION NO.3428 OF 2022
IN
WRIT PETITION NO.3061 OF 2022

Suresh Sumermal Jain	]	Applicant
<u>IN THE MATTER BETWEEN:</u>		
1. M/s Hi Rock Construction Co.	]	
2. Sangeeta Heeralal Doshi	]	
3. Hitesh Hirachand Dhokad	]	
4. Sanjay Hirachand Dhokad	]	
5. Heeralal Meghraj Doshi	]	Petitioners
Vs.		
1. State of Maharashtra	]	
2. Economic Offences Wing	]	
Unit - VIII, Mumbai.	]	
3. Viraj Rasiklal Maniar	]	
4. Hi Rock Construction Pvt. Ltd.	]	Respondents

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Mr. Aabad Ponda, Senior Advocate a/w Mr. Aalam Parsurampuria, Mr. Adil Parsurampuria, and Ms. Rajeshri Thakar i/b Mr. Prashant Parsurampuria, for Petitioners.

Ms. Vinsha Acharya, for Intervener in I.A. No.3428 of 2022.

Mr. Ranjit Agashe i/b Ms. Namrata Agashe for Intervener in I.A. No.3092 of 2022.

Mr. Ryan Peters for Intervener in I.A. No.3093 of 2022.

Mr. K.V. Saste, A.P.P, for Respondent-State.

Mr. Pranav Badheka i/b Mr. Nikhil Karnavat, for Respondent No.3.

Mr. Milan Desai, for Respondent No.4.

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CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.

DATE : 23rd JANUARY, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]

1. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, petition is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1. Mr. Badheka, learned Counsel waives notice on behalf of respondent No.3. Mr. Desai, learned Counsel waives notice on behalf of respondent No.4.

5. By this petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the petitioners seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.900 of 2022 registered with M.H.B Colony Police Station, Mumbai and subsequently, transferred to EOW, Unit VIII and renumbered as C.R. No.116 of 2022 for the alleged offences punishable under sections 406, 409, 420, 504, 506 r/w 120B of the Indian Penal Code (for short "I.P.C) and sections 3 and 4 of the Maharashtra Protection of Interests of Depositors (In Financial Establishments) Act, 1999. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Facts in brief are as follows.

7. Petitioner No.1 is a Partnership Firm. Petitioners No.2 and 3 are the partners of the said firm. Petitioner No.5 is the husband of petitioner No.2 and also a Director and Shareholder of respondent No.4.

8. Respondent No.4 is a Private Limited Company. Though respondent No.4 is not an accused in the subject F.I.R, however, since respondent No.3-first informant has named respondent No.4 in the complaint dated 6th May, 2022, it has been added as a 4th respondent in this petition. It is also in view of the fact that respondent No.4 is also a party to the settlement agreement entered into between the parties.

9. The subject F.I.R came to be lodged with M.H.B. Police Station, Mumbai bearing C.R. No.900 of 2022 by respondent No.3 against the petitioners. In short, it is alleged by respondent No.3 that he and his family members viz. his wife- Vaishali, , mother- Hansa R. Maniar, his firm viz. M/s. Maniar Srivastava Associates and Arvind Ramavta Bubna, Aruna Arvind Bubna, Ayush Arvind Bubna had advanced a sum of approximately Rs.4,85,00,000/- to petitioner No.1- Firm somewhere in the year 2015-2016. Petitioner No.1 had paid interest up to the year 2020 and thereafter stopped paying interest. It is alleged that the above sums were investments. Due to non payment of interest, respondent No.3 has lodged an F.I.R against the petitioners, as above.

10. It is informed that charge-sheet has not been filed by the Investigating Agency.

11. Now, the parties have amicably settled their dispute out of the Court. Copy of settlement agreement depicting amicable settlement between the parties out of Court dated 5th August, 2022 is tendered. In view of the said settlement agreement between the parties hereinabove, respondent No.3-first informant does not wish to pursue F.I.R No.900 of 2022 registered with respondent No.1. Petitioners and respondent No.3 undertake to comply with the settlement entered into between respondent No.3 and six others.

12. Accordingly, respondent No.3 - Viraj Rasiklal Maniar and also Vaishali Viraj Maniar, Hansa Rasiklal Maniar, Nivit Srivastava - partner of Maniar Srivastava Associates, Arvind Ramavtar Bubna, Aruna Arvind Bubna and Ayush Arvind Bubna have executed their consent affidavits, thereby giving no objection to quashing of the subject F.I.R registered with respondent No.1 and is being investigated by EOW, Unit VIII, Mumbai.

13. We have heard learned Counsel for the parties.

14. At the outset, it is argued by the learned Senior Counsel that in view of the amicable settlement of the dispute which is a commercial dispute of contractual nature and which does not involve any heinous crime, there is no impediment in quashing the subject F.I.R.

15. Learned A.P.P has no objection. The parties are before the Court except Hansa Maniar whose affidavit is tendered on record and her statement came to be recorded by the concerned Police Station, which is tendered before us.

16. Respondent No.3 is present in the Court. On being questioned, respondent No.3 reiterates what is stated by him in his affidavit. Learned Counsel appearing for respondent No.3 has tendered photostat copy of the Aadhar Card of respondent No.3 duly attested by him. The same is taken on record. Learned Counsel for respondent No.3 has identified him. Learned A.P.P has verified the original Aadhar Card of respondent No.3.

17. Considering the nature of the dispute, settlement agreement between the parties, affidavit of respondent No.3 and six others

and having regard to the judicial pronouncements of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**², there is no impediment in allowing the petition.

18. The petition is accordingly allowed. The F.I.R bearing No.900 of 2022 registered with M.H.B Colony Police Station, Mumbai, and subsequently transferred to EOW Unit VIII and renumbered as C.R. No.116 of 2022, as against the petitioners, is quashed and set aside.

19. Since there are 5 petitioners, one of the petitioner will pay **Rs.1,00,000/-** to **Mumbai Police Welfare Fund bearing Account No.4650100008693, IFSC No.UTIB0000465**; two petitioners will pay **Rs.2,00,000/-** (i.e **Rs.1,00,000/-** each) to **Jeevan Sandhya Mangalya Sansthan bearing Account No.60134381699, IFSC No.MAHB0000189**; and two petitioners will pay **Rs.2,00,000/-** (i.e **Rs.1,00,000/-** each) to **Adhar Ashram, Nashik bearing Account No.0240101024183, IFSC No.CNRB0000240**. The said costs to be deposited on or before **10th March, 2023**.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

20. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

21. In view of disposal of petition, pending applications, stand disposed of.

22. Matter be listed on **13th March, 2023**, for recording compliance regarding deposit of costs.

23. All parties to act upon an authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]