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CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2890 OF 2023

V/s.

The State of Maharashtra & Another. ...Respondents.

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

Mr. Ashish S. Vernekar for Respondent No.2.

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

DATE : 22nd August, 2023.

P. C. :

1. Petitioners, accused in CR No.494 of 2023 dated 17th July 2023 registered with Samta Nagar Police Station, Mumbai under sections 420 read with 120-B and 34 of the Indian Penal Code, have invoked the 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 crime with the consent of Respondent No.2, the informant.

2. Learned advocate for the Petitioner submitted that, the basic dispute interse between the Petitioners and Respondent No.2 is of civil

nature. He submitted that after lodgment of the present crime, the Petitioners and Respondent No.2 have resolved their disputes and differences and have executed Consent Terms/Deed of Settlement, dated 29th July 2023. He submitted that in view thereof, the present crime may be quashed.

3. Learned advocate for Respondent No.2 submitted that Respondent No.2 has filed Affidavit of Consent, dated 3rd August 2023 duly affirmed before a Notary Public and has given his 'no objection' for quashing of the crime in question.

Respondent No.2 is personally present in the Court and through his advocate reiterates the contents of his Affidavit dated 3rd August 2023 and his 'no objection' for quashing the crime in question.

4. Perusal of the First Information Report indicates that the same is filed after the commercial transaction between the Petitioners and Respondent No.2 could not be fructified. That, as the Petitioners did not pay the relevant percentage of profit to Respondent No.2, their relations got strained and thereafter Respondent No.2 has lodged the present crime.

In his Affidavit dated 3rd August 2023, Respondent No.2 has stated that, he has amicably resolved all the disputes with the Petitioners

which predominantly arose out of lack of communication and misunderstanding and in view of the execution of Consent Terms / Deed of Settlement dated 29th July 2023 between the Petitioners and Respondent No.2, all the disputes are duly resolved and he has no complaint or grievance against the Petitioners. In paragraph No.6 thereof, he has given his 'no objection' for quashing of the crime in question.

5. In view thereof, we are inclined to quash the said CR No.494 of 2023 dated 17th July 2023 registered with Santa Nagar Police Station, Mumbai.

6. As we expressed our opinion for quashing of the said crime, i.e., CR No.494 of 2023 dated 17th July 2023 registered with Santa Nagar Police Station, Mumbai, learned advocate for the Petitioners, on instructions, submitted that the Petitioners will pay a cost of Rs.50,000/- each, totaling to Rs.5 lakhs, to Tata Memorial Centre (Tata Memorial Hospital), Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from the date of uploading of Order on the official website of the High Court. The said statement is accepted as an undertaking given to this Court.

7. We direct the Petitioners to pay a cost of Rs.50,000/- each,

totaling to Rs.5 lakhs, to Tata Memorial Centre (Tata Memorial Hospital), Ernest Borges Marg, Parel, Mumbai – 400 012 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	:-	Central Bank of India.
Branch Name	:-	TMH, Parel, Mumbai - 400 012.
Account Name	:-	Tata Memorial Centre (Tata Memorial Hospital)
Account Number	:-	1002449683
IFSC Code	:-	CBIN0284241

The Petitioners to deposit the said cost of Rs.5,00,000/- 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 clause (a).

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 investigating agency shall complete the investigation of present crime expeditiously.

10. List the petition on board on 12th September 2023, under caption 'for reporting compliance' of present Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)