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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3321 OF 2023

Parul Jitendra Brahmhatt and Ors.

.. Petitioners

vs.

The State of Maharashtra and Ors.

.. Respondents

Mr. Arshad Shaikh, Senior Advocate a/w. Mr. Ranjit Agashe a/w. Vinsha Acharya i/by Namrata Agashe, Advocates for the Petitioners

Mr. H.J. Dedhia, APP for Respondent Nos.1 and 2 – State

Mr. Dipen Furia i/by M/s. Shah & Furia Associates for Respondent No.3

**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 25th OCTOBER, 2023.

P. C.:-

1) Petitioners accused in C.R. No. 1528 of 2022 registered with Oshiwara Police Station, Mumbai under Sections 406, 420 r/w. 120-B of Indian Penal Code have invoked jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of Criminal Procedure Code for quashing of the said crime with consent of Respondent No.3, informant.

2) Mr. Shaikh, learned Senior Counsel for the Petitioners submitted that, the Petitioners and Respondent No.3 have executed Consent Terms dated 18th August, 2023 in Arbitration Proceedings and have settled their disputes

and differences amicably. Paragraph 6 of the Consent Terms provides for quashing of the present crime with the consent of Respondent No.3. He submitted that, in furtherance of the said Consent Terms present Petition is filed. He therefore prayed that, the crime in question may be quashed and with the consent of Respondent No.3.

3) Learned Advocate for Respondent No.3 tendered across the bar his Affidavit dated 25th October, 2023. Respondent no.3 has admitted the execution of Consent Terms dated 18th August, 2023. In paragraph 3 thereof, Respondent No.2 has given his no objection for quashing of the present crime.

Respondent No.3 is personally present in the Court and through his Advocate reiterates the contents of this Affidavit dated 25th October, 2023 and his 'no objection', to quash the crime in question.

4) In view of the above, we are inclined to quash C.R. No. 1528 of 2022 registered with Oshiwara Police Station, Mumbai under Sections 406, 420 r/w. 120-B of Indian Penal Code.

5) As we expressed our opinion for quashing the C.R. No. 1528 of 2022 registered with Oshiwara Police Station, Mumbai, learned Advocate for the Petitioners, on instructions, submitted that, the Petitioners will pay a cost of Rs.1,00,000/- to Advocates' Association of Western India Generation Next

Fund, Mumbai within a period of two weeks from the date of uploading of the Order. The learned Advocate appearing for Respondent No.3 submitted that Respondent No.3 will also pay a cost of Rs.1,00,000/- within a period of two weeks to Advocates' Association of Western India Generation Next Fund, Mumbai. The said statements of both Advocates accepted as an undertaking given to this Court.

6) We direct the Petitioners as well as Respondent No.3 to pay the said cost of Rs.1,00,000/- each by the Petitioners and by Respondent No.3 to Advocates' Association of Western India Generation Next Fund, Mumbai within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

6.1) The 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

8) The Petitioners and Respondent No.3 to deposit the said cost of as aforesaid within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

- 9) In view of above and subject to payment of cost by Petitioners and Respondent No.3, Petition is allowed in terms of prayer clause (a).
- 10) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the trial Court will proceed with the said C.R. No.1528 of 2022 expeditiously.
- 11) List the Petition on 6th November, 2023 under the caption '*for reporting compliance*' of Order.
- 12) All the concerned to act on the basis of an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)