



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3286 OF 2023

Nirmal Gagubhai Chhadwa & Anr.

.....Petitioners

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Adv. Pushpa Ganediwala i/by Adv. Anshu Agrawal, Adv. Ankit Rathod for the Petitioners.

Mr. Ajay Patil APP, for the Respondent-State.

Adv. Sheetal Shah a/w Adv. Sanjay Nagi i/by Mehta & Girdharlal for the Respondent No.2.

Mr. Atul Adurkar, API, EOW, Mumbai present.

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

DATE : 3rd OCTOBER, 2023.

PC.:-

1) Leave to amend to incorporate challenge to C.C.No.916/PW/2020 in the prayer clauses.

Amendment be carried out forthwith and in any event during the course of the day.

2) Petitioners, Original accused in C.C.No.916/PW/2020 pending on the file of Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai arising out of C.R.No. 121 of 2019 dated 6th April, 2019 registered with Chembur Police Station, Mumbai under Sections 420 and 406 r/w 34

of the Indian Penal Code, have invoked jurisdiction of this Court under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, for quashing of the said crime with the consent of Respondent No.2, the informant.

3) Learned counsel for the Petitioners submitted that, the Petitioners and Respondent No.2 have settled their disputes and differences amicably. That, in Commercial Suit No.194 of 2021 filed by the Respondent No.2, the parties herein have executed Consent Terms dated 23rd September, 2023 and in paragraph No.13.2 thereof, the Respondent No.2 has agreed to withdraw present crime filed against the Petitioners. She submitted that, in pursuance of the said Consent Terms, present Petition is filed.

4) Respondent No.2 has tendered across the bar his Affidavit dated 23rd September, 2023, duly affirmed before a Notary Public. Respondent No.2 has admitted the fact of execution of Consent Terms dated 23rd September, 2023 in the said Commercial Suit No.194 of 2021. In paragraph No.6 thereof he has given his consent for quashing of crime in question.

4.1) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 23rd September, 2023 and his 'no objection' for quashing of the crime in question.

5) In view of the above, we are inclined to quash C.C.No.916/PW/2020 pending on the file of Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai arising out of C.R.No. 121 of 2019 registered with Chembur Police Station, Mumbai.

5.1) As we expressed our opinion for quashing of C.C.No. 916/PW/2020 pending on the file of Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai, learned counsel for the Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.2,50,000/- to Central Police Welfare Fund within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

5.2) We direct the Petitioners to pay a cost of Rs.2,50,000/- to Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

5.3) The details of the bank Account for payment of cost are as under:-

Bank Name	:-	Axis Bank Limited.
Branch Name	:-	Worli, Mumbai (M.H.), Mumbai-400 025
Account Name	:-	Central Police Welfare Fund
Account Number	:-	914010029005759
IFSC Code	:-	UTIB0000060

5.4) Petitioners to deposit the said cost of Rs.2,50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

6) In view of above, subject to payment of cost, Petition is allowed in terms of prayer clauses (a) and a(1).

7) 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.C.No. 916/PW/2020 expeditiously.

8) List the Petition on 27th October, 2023 under caption '*for reporting compliance*' of Order.

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

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)