

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 5105 OF 2019

Sunil Dedhia

...Petitioner

Versus

The State of Maharashtra & Anr

...Respondents

Mr. Aviral Sahai a/w Vibha Joshi, i/b Zunjarrao & Co., Advocate,
for Petitioner.

Mr. Arfan Sait, APP, for State/Respondent No.1.

Mr. Rahul Gaikwad, i/b Gravitas Legal, Advocate, for Respondent
No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th AUGUST 2023

PC :

1. Heard parties.
2. Rule.
3. Rule is made returnable forthwith with the consent of both the parties.
4. This is a Petition for quashing and setting aside the order dated 8th May 2017 passed by the learned Metropolitan Magistrate 66th Court at Andheri, Mumbai in Criminal Case No.259/SW/2014 issuing process against the Petitioner and four other Accused for

the offence punishable under Section 465 r/w 120-B of Indian Penal Code. The Petition is filed on merits of the matter. In the meantime, the Complainant and the Petitioner have arrived at a settlement and, therefore, the relief is sought by consent.

5. The Petitioner who is the original Accused No.1 in the said proceedings is present in the Court and is identified by his learned Counsel.

6. The Respondent No.2 who is the original Complainant is also present in the Court and is identified by his learned Counsel.

7. The Respondent No.2 in person as well as through his Counsel has stated before the Court that he has no objection for quashing of the impugned order passed against the Petitioner.

8. The complaint was filed by the Respondent No.2. He was a director of M/s. Halma India Pvt. Ltd. The Halma group of company is based in U.K. Originally there were two share holders, they were M/s. Halma BEA Ltd. and Halma International Ltd. The present Petitioner was appointed as a Company Secretary of M/s. Halma India Pvt. Ltd. The Complainant was one of the directors of

M/s. Halma India Pvt. Ltd. The gist of the complaint is that Halma BEA Ltd. became disfunctional with effect from 30th July 2013 and, therefore, it could not have held shares of M/s. Halma India Pvt. Ltd. The allegations in the complaint are that the other directors of M/s. Halma India Pvt. Ltd. entered into conspiracy to transfer the shares held by M/s. Halma BEA Ltd. to another company from their group of companies. As of today, there are three share holders in the record of M/s. Halma India Pvt. Ltd. They are Halma BEA Ltd., Halma International Ltd. and Meadowbridge Ltd. It is the case of the Complainant that the other directors of his company entered into conspiracy and for that purpose the Petitioner helped them by procuring two backdated share transfer forms. Based on this basic averment, the complaint was filed.

9. At the initial stage, the learned Magistrate asked for an inquiry report from the Police under Section 202 of Criminal Procedure Code, 1973 (for short “Cr.PC.”). During the police inquiry, those two documents i.e., share transfer forms which were allegedly backdated, were not found. The Police submitted their report. Though the last paragraph of the report is not very clear,

but the report shows that as of today, there are three companies holding shares of M/s. Halma India Pvt. Ltd. as mentioned hereinabove. One share was transferred to Meadowbridge Ltd. on 3rd January 2014. However, the report does not show that it was based on the share transfer form which purportedly was procured by the Petitioner.

10. After this report was submitted by the Police the learned Magistrate passed a reasoned order and issued process against all the Accused, including the present Petitioner, on 8th May 2017 under Section 465 r/w 120-B of IPC. In the mean time, Suit No.582 of 2017 was filed by the original Complainant in this Court on the original side. The Petitioner and the other Accused as well as M/s. Halma India Pvt. Ltd. were Defendants in the said suit.

11. This Court (Coram: Manish Pitale, J.) vide order dated 18th July 2023 passed in various Notices of Motion in the said suit permitted the Plaintiff (the original Complainant herein) to delete the present Petitioner and the other Accused in the suit from that array of parties. The consent terms entered into between the

Plaintiff and the remaining Defendants were taken on record and the suit was decreed as per the consent terms. The undertaking given in the consent terms were accepted as undertaking to the Court and the parties were directed to abide by their respective obligations as per the consent terms. The said suit was accordingly disposed of.

12. Learned Counsel for the Petitioner invited my attention to paragraph (6)(ii)(o) of the consent terms in which it was averred that the Plaintiff (the Respondent No.2 herein – Complainant) shall fully co-operate to have the Criminal Case No.259/SW/2014 pending before the learned Metropolitan Magistrate 66th Court Andheri, Mumbai quashed and that the Plaintiff shall file an affidavit consenting to quashing of the said case.

13. Accordingly, the Plaintiff i.e., the Complainant in the proceedings has filed an affidavit before this Court which is taken on record and marked as 'X' for identification. In that affidavit, he has categorically stated that he was requesting this Court to grant

the relief as prayed for by the Petitioner and that he had no objection for the same. There was a reference to the consent decree as well.

14. Considering this background and more particularly taking into account the fact that; those share transfer forms were not recovered, neither they were used, I am inclined to allow this Petition. In this situation, continuation of the Criminal proceedings will serve no purpose at all. The dispute between the parties is strictly private in nature and it does not affect the society at large. Therefore, I am inclined to allow this Petition. Both the learned Counsel as well as the contesting parties have agreed for quashing of the impugned order.

15. Hence, the following order:

ORDER

i) Rule is made absolute in terms of prayer clause

(a), which reads thus:-

“a) This Hon’ble Court be pleased
to issue a direction or order quashing

and setting aside the Criminal Case No. 259/SW/2014 pending before the Learned Metropolitan Magistrate, 66th Court at Andheri, Mumbai; quashing and setting aside the order dated May 8, 2017 and quashing and setting aside the summons dated August 16, 2017, and any other criminal proceedings arising therefrom against the present Petitioner and discharge the said Petitioner;"

ii) The Writ Petition is disposed of accordingly.

(SARANG V. KOTWAL, J.)