

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3576 OF 2023.

Sabita Bhalotia

.. Petitioner

vs.

State of Maharashtra and Anr.

.. Respondents

WRIT PETITION NO. 3635 OF 2023.

Dinesh Bhalotia

.. Petitioner

vs.

State of Maharashtra and Anr.

.. Respondents

Mr. Ashwin Shete a/w. Mr. Abhay Dhadiwal a/w. Mr. Gaurav Dalvi a/w. Mr. Yash Pandya i/b. M/s. Jayakar & Partners for the Petitioners.

Ms. Anamika Malhotra, APP for Respondent No.1 -State

Mr. Ramiz Shaikh i/b. Rizwan Merchant & Associates for Respondent No.2

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

DATE : 2nd NOVEMBER, 2023.

P. C.:-

1) Petitioners, accused in C.R No. 344 of 2023 registered with Dadar West Police Station, Mumbai dated 7th August, 2023 under Sections 420, 465, 467, 468, 471, 477-A r/w. 34 of the 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 the consent of Respondent No.2, the informant.

Learned Advocate appearing of the Petitioners on instructions submitted that, till date police have not submitted charge-sheet in the present crime. The said statement is accepted.

2) Learned Advocate for the Petitioners submitted that, in Suit bearing No. 2141 of 2023 filed by the Survival Technologies Ltd. (for short 'the said Company'), before the City Civil Court at Bombay, of which Respondent No.1 is an employee and authorized representative of the Company, the parties herein have executed Consent Terms dated 27th September, 2023. That, in pursuance of the terms and conditions of the said Consent Terms, the Petitioners have paid the agreed amount to Respondent No.2's Company. The Respondent No.2 has agreed therein to give his consent for quashing of the present crime. He submitted that, in furtherance of the said Consent Terms dated 27th September, 2023, present Petitions are filed. He therefore prayed that, the crime in question may be quashed with the consent of Respondent No.2

3) Learned Advocate for Respondent No.2 conceded the fact of execution of the Consent Terms dated 23rd September, 2023. He submitted that the Respondent No.2 is the authorized representative of the said Company. He tendered across the bar an Affidavit dated 25th October, 2023 of the Respondent No.2, duly affirmed before the Assistant Registrar of this Court.

In the said Affidavit, Respondent No.2 has agreed execution of Consent Terms dated 27th September, 2023 before the City Civil Court at Mumbai. In para No.7 thereof, he has stated that, he has no objection if the present First Information Report is quashed and set aside by this Court.

3.1) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 25th October, 2023 and his 'no objection' for quashing of the crime in question.

4) In view thereof, we are inclined to quash C.R No. 344 of 2023 registered with Dadar West Police Station, Mumbai.

5) As we expressed our opinion for quashing of said crime registered with C.R No. 344 of 2023 registered with Dadar West Police Station, Mumbai, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.75,000/- each totalling to Rs.1,50,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai within a period of three weeks from the date of uploading of Order.

5.1) As Respondent No.2 has received its due payment from the Petitioners, learned Advocate for Respondent No.2 on instructions submitted, the Respondent No.2 will also pay a cost of Rs.75,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai within a period of three weeks from the date of uploading of the present

Order on the official website of High Court.

5.2) The said statements of both Advocates on behalf of their respective clients are accepted as an undertakings given to this Court.

6) We direct the Petitioners as well as Respondent No.2 to pay the said cost of Rs.75,000/- each to Advocates' Association of Western India Generation Next Fund, Mumbai within a period of three 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

7) The Petitioners and Respondent No.2 to deposit the said cost within stipulated period as noted above and submit the receipts of the same in the Registry of this Court.

8) In view of above and subject to payment of cost by Petitioners and Respondent No.2, Petition is allowed in terms of prayer clause (a).

9) 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 case expeditiously.

10) List the Petition on 30th November, 2023 under the caption '*for reporting compliance*' of Order.

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

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)