

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.5481 OF 2019***

Abhishek Ashok Saboo

.. Petitioner.

Versus

1. MIRC Electronics Limited

2. State of Maharashtra

..Respondents.

Mr. Darshan Juikar for the Petitioner.

Mr. K.V. Saste, APP for the respondent No.2-State.

Mr. Rahul Arote and Ms. Tanvi Mahadik for the respondent No.1.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : MARCH 14, 2023.

ORDER (Per Sharmila U. Deshmukh, J.):

1. Rule. Rule made returnable forthwith with the consent of parties and taken up for final disposal. Mr. Rahul Arote, learned counsel waives notice on behalf of respondent No.1. Learned APP waives notice on behalf of respondent No.2-State.

2. This is a petition seeking quashing by consent the Criminal Case No.1105/PW/2009 pending on the file of learned Additional Chief Metropolitan Magistrate, 47th Court, Esplande, Mumbai arising out of FIR registered vide CR No.64 of 2007 dated 09th August, 2007, with L.T Marg Police Station, Mumbai for the alleged offences punishable under

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Sections 408, 420, 465, 467, 468, 471 and 34 of the Indian Penal Code, 1860.

3. Perused the papers. The respondent No.1 is the original complainant. It appears that in September, 2005, the petitioner was employed as a Sales Executive of the respondent No.1-Company and at the relevant time he was assigned the work of booking orders and collecting payments from the customers and one M/s. J.P. Electronics, the customer of respondent No.1-Company. It is alleged that the petitioner manipulated the accounts of respondent No.1-Company and mailed forged balance-sheets to the said M/s. J.P. Electronics and as such, sold goods to M/s. J.P. Electronics at a cheaper rate, by reason of which the respondent No.1-Company suffered loss to the tune of Rs.98,62,605/-. Pursuant thereto, the respondent No.1 lodged the subject FIR.

4. Learned counsel for the petitioner submits that the petitioner and respondent No.1-Company have amicably resolved their dispute. He would further submit that the respondent No.1 had filed Commercial Summary Suit No.39 of 2010 before this Court and in the said proceeding, to which the Petitioner is a party, consent terms have been

entered into between Respondent No.1 and M/s. J.P. Electronics.

5. Learned counsel for respondent No.2 has tendered the affidavit of one Vinod Shashidhar Rai, the authorized signatory of respondent No.1, stating that respondent No.1 has no objection for quashing of the proceeding being CC No.1105/PW/2009 pending on the file of learned Additional Chief Metropolitan Magistrate, 47th Court, Esplande, Mumbai. The consent affidavit is supported by resolution dated 7th November, 2014 of respondent No.1-Company, authorizing Vinod Shashidhar Rai to give consent to quash the proceeding filed against the petitioner.

6. Mr. Vinod Shashidhar Rai, the authorized signatory of the respondent No.1-Company is present in the Court and he reiterates the contents of his affidavit.

7. Considering the nature of dispute, the consent terms filed in the Commercial Summary Suit No.39 of 2010 and the affidavit filed by the respondent No.1-Company, in our opinion, there is no impediment in allowing the present petition.

8. Learned counsel for the respondent No.1 has tendered a copy of the

Aadhaar Card of the authorized signatory of respondent No.1. Learned APP has verified the same with the original Aadhaar Card.

9. For the aforesaid reasons, the petition succeeds. The FIR registered vide CR No. No.64 of 2007 dated 9th August, 2007, registered with L.T Marg Police Station and the consequent proceeding bearing CC No.1105/PW/2009 pending on the file of learned Additional Chief Metropolitan Magistrate, 47th Court, Esplande, Mumbai are hereby quashed and set aside, subject to costs of Rs.1,00,000/- being deposited with **the Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465** within six weeks from today.

10. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

11. For recording the compliance as regard deposit of costs, stand over to **2nd May 2023**.

12. All concerned to act upon the authenticated copy of this order.

[SHARMILA U. DESHMUKH, J.]

[REVATI MOHITE DERE, J.]