

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

CRIMINAL WRIT PETITION NO. 1993 OF 2023

Aditya Dinesh Nair

...Petitioner

V/s.

The State of Maharashtra & Anr.

...Respondents

Mr. Datta Mane for the Petitioner.

Ms. M. H. Mhatre, APP for the Respondent-State.

Ms. Radhika Samant a/w. Adv. Sadhana Patil for Respondent No.2

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ**

DATED : 3rd AUGUST, 2023

P.C.:

1. The prayer is for quashing of FIR in Crime No. 363 of 2021 punishable u/s. 454 & 380 of IPC.
2. The genesis of the offence appears to be the Petitioner has stolen the valuables from the house of the Respondent No. 2/Complainant thereby committing offence of theft and lurking trespass.
3. The Respondent No. 2/Complainant has tendered the Consent Affidavit. The Respondent/Complainant is identified by his lawyer so also by the learned APP from the Aadhaar Card produced by him.
4. The Respondent No. 2/Complainant has stated in the Affidavit that the Petitioner/Accused has already executed an undertaking

before the Trial Court at the time of seeking bail, which is produced at page nos. 24 to 25 of the Petition. It is claimed that the Petitioner/ Accused, who gave an undertaking that he shall conduct in terms of an undertaking which is produced at the page nos. 24 to 25 and as such the Respondent No. 2/Complainant has extended consent for quashing by filing Affidavit.

5. The Respondent No. 2/Complainant admits the contents of the Consent Affidavit.

6. In the aforesaid background, learned Counsel for the Petitioner/ Accused informed that the Petitioner/Accused admits to the conditions of undertaking dated 11/12/2021 furnished before the Court of JMFC, Thane in the matter of consideration of the prayer for the bail in CR No. 363 of 2021 i.e the present matter.

7. The Petitioner/Accused is present in the Court. He also accepts that he has given an undertaking to the Court of JMFC, Thane in CR No. 363 of 2021 and had undertaken in this Court that he shall in true letter and spirit, shall comply with each and every terms of the aforesaid undertaking dated 11/12/2021.

8. The aforesaid statement made by the Petitioner/Accused is accepted as an Undertaking to this Court.

9. In view of the above, we deem it appropriate to allow the

present proceedings particularly having regard to the fact that the pendency of the prosecution against the Petitioner cannot be taken to its logical end having regard to the stand taken by the Respondent/Complainant and in view of the law laid by the Apex Court in the matters of ***Gian Singh vs. State of Punjab and Another*** reported in ***(2012) 10 SCC 303*** and ***Narinder Singh & Ors. vs. State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***

10. As such, the present Petition stands allowed in terms of prayer clause (a) thereby granting the prayer for quashing by consent subject to payment of cost of Rs.10,000/- to be paid to Kirtikar Law Library by the Petitioner/Accused within a period of four weeks from today.

11. The Petitioner/Accused shall produce the copy of the receipt of payment of cost in the Registry within a period of four weeks from today, failing which the order of quashing the proceedings shall automatically stand revived and the Petition be posted for hearing so as to enable the Court to proceed against Petitioner/Accused.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)