

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3810 OF 2023**

Nilam Rasik Parmar Nee

Ms. Neelam Gangadhar Waghdhare

.....Petitioner

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Adv. Saurabh More for the Petitioner.

Mr. Ajay Patil APP for the Respondent-State.

Adv. Disha Shah i/by Adv. Vijay Upadhyay for the Respondent No.2.

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

**DATE : 5<sup>th</sup> DECEMBER, 2023.**

**PC:-**

1) Petitioner, accused in C.C. No.5/PW/2007 pending on the file of learned Metropolitan Magistrate, 62<sup>nd</sup> Court Dadar, Mumbai arising out of C.R. No.109 of 2006 dated 11<sup>th</sup> April, 2006 registered with Worli Police Station, Mumbai under Sections 381, 420, 465, 467, 468 and 471 of the Indian Penal Code, has invoked jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of the said case, with the consent of Respondent No.2, the informant.

2) Learned Advocate for the Petitioner submitted that, in the year 2006 itself, the Petitioner had returned the said amount of Rs.90,000/- to

the Respondent No.2. That, due to some misunderstanding, the proceedings for quashing of the said crime could not be initiated immediately. That, in due course of time, the Petitioner has returned the entire amount of Rs.3,10,000/- to the Respondent No.2 and has settled the matter amicably with him. He therefore prayed that, the said case may be quashed with consent of Respondent No.2.

3) Learned Advocate for Respondent No.2 tendered across the bar his Affidavit dated 3<sup>rd</sup> December, 2023, duly affirmed before a Notary Public. Respondent No.2 has admitted the fact of receipt of amount of Rs.3,10,000/- and settlement of the matter amicably with the Petitioner. In paragraph No.7 thereof, he has given his consent for quashing of the case in question.

3.1) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 3<sup>rd</sup> December, 2023 and his 'no objection' for quashing of the crime in question.

4) In view of the above, we are inclined to quash C.C. No.5/PW/2007 pending on the file of learned Metropolitan Magistrate, 62<sup>nd</sup> Court Dadar, Mumbai arising out of C.R. No.109 of 2006 dated 11<sup>th</sup> April, 2006 registered with Worli Police Station, Mumbai.

4.1) As we expressed our opinion for quashing of said C.C. No.5/PW/2007 pending on the file of learned Metropolitan Magistrate, 62<sup>nd</sup> Court Dadar, Mumbai, learned Advocate for the Petitioner on instructions

submitted that, the Petitioner will pay a cost of Rs.25,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

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.

4.2) We therefore direct the Petitioner to pay cost of Rs.25,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the Order on the official website of Bombay High Court.

4.3) Petitioner to pay the said cost within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

5) In view of the above and subject to payment of cost by Petitioner, C.C. No.5/PW/2007 pending on the file of learned Metropolitan Magistrate, 62<sup>nd</sup> Court Dadar, Mumbai arising out of C.R. No.109 of 2006 dated 11<sup>th</sup> April, 2006 registered with Worli Police Station, Mumbai is quashed and set aside.

- 5.1) Petition is allowed in the aforesaid terms.
- 6) 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 hearing of said C.C. No.5/PW/2007 expeditiously.
- 7) List the Petition on 3<sup>rd</sup> January, 2024 under caption '*for reporting compliance*' of Order.
- 8) All the concerned to act on the basis of an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

SANJIV  
SHARNAPPA  
MASHALKAR

Digitally signed  
by SANJIV  
SHARNAPPA  
MASHALKAR  
Date:  
2023.12.11  
19:21:21 +0530