

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO.1516 OF 2023**

Adi Gani Jetha & Anr.
V/s.

... Applicants

The State of Maharashtra & Anr.

... Respondents

Mr. Satyaram R. Gaud for Applicants.

Mr. A.S. Patil, APP for Respondent No.1-State.

Ms. Shikhani Shah for Respondent No.2.

Ms. Tejashri Kadam, Assistant Police Inspector, Pydhonie Police Station, Mumbai, present in-person.

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

DATE : 7th December 2023.

P.C. :

1) Applicants have filed the present application under section 482 of the Criminal Procedure Code, 1973 for quashing of the FIR bearing C.R. No.171 of 2023 dated 26th August, 2023 registered with Pydhonie Police Station, Mumbai under Sections 420 and 406 read with 34 of the Indian Penal Code with consent of Respondent No.2, informant.

2) Mr. Gaud, learned Advocate for Applicants submitted that, Applicants and Respondent No.2 have amicably settled their disputes and differences and have executed the Memorandum of Understanding dated 28th November, 2023, duly notarized before a Notary Public. He submitted that, as per the schedule mentioned in para-1 thereof, Applicants are bound to pay

the amounts to Respondent No.2. However, as the Bank Account of the Applicants is freezed by the police, the amounts from Sr. No.2 onward could not be paid to Respondent No.2.

2.1) He on instructions from Applicants, made a categorical statement before this Court that, even after quashing of the present crime, Applicants will abide by the terms and conditions of the said Memorandum of Understanding dated 28th November, 2023 and will pay the balance amounts to Respondent No.2, without any demur. The said statement is accepted. He on instructions further submitted that, till date Police have not filed chargesheet. He therefore prayed that, the crime in question may be quashed with consent of Respondent No.2.

3) Learned Advocate appearing for Respondent No.2, submitted that, Respondent No.2 has filed Affidavit dated 28th November, 2023 duly affirmed before a Notary Public. Respondent No.2 has admitted execution of settlement between the parties and execution of Memorandum of Understanding thereof. In para-11 of the Affidavit, Respondent No.2 has given his 'no objection' for quashing of the crime in question.

3.1) Respondent No.2 is personally present before this Court and through his Advocate, reiterated the contents of his Affidavit dated 28th November, 2023 and his 'no objection' for quashing of the crime in question.

4) In view thereof, we are inclined to quash C.R. No.171 of 2023 dated 26th August, 2023 registered with Pydhonie Police Station, Mumbai.

5) As we expressed our opinion for quashing of said C.R. No.171 of 2023 dated 26th August, 2023 registered with Pydhonie Police Station, Mumbai, learned Advocate Mr. Gaud, appearing for Applicants on instructions submitted that, the Applicants will pay a cost of Rs.1,00,000/- each totalling to Rs.2,00,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the present Order on the Official Website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

6) We direct the Applicants to pay a cost of Rs.2,00,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High 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.

6.1) Applicants to deposit the said cost of Rs.2,00,000/- within stipulated period as noted above and submit receipt of the same in the

Registry of this Court.

7) At this stage, Mr. Gaud, learned Advocate appearing for Applicants submitted that, Applicant No.1 is at Dubai and due to Look Out Circular issued against him, is unable to come to India for the purpose of making payment to Respondent No.2 as agreed. He therefore prayed that apart from quashing of the crime in question, the Look Out Circular issued against him, may also be quashed.

8) In view of the above and subject to payment of cost, Application is allowed in terms of prayer clauses (a), (b) and (c).

9) It is made clear that, if the cost is not paid within stipulated period as mentioned above, Application shall stand revived automatically and in that event, the Investigating Officer shall complete the investigation of the present crime expeditiously.

10) List the Application on board on 8th January, 2024, under caption 'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

Digitally signed by
RAJESH VASANT
CHITTEWAN
Date: 2023.12.15
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