

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3981 OF 2023**

Nitesh Mishra S/o. Hari Keshav MishraPetitioner

Vs.

The State Of Maharashtra & Anr.Respondents

Mr. Kumar i/by M/s. Kumar And Associates for the Petitioner.

Mr. Ajay Patil APP for the Respondent-State.

Adv. Rohit Upadhyay i/by Dildar Singh for the Respondent No.2.

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

DATE : 22nd DECEMBER, 2023.

PC:-

1) Petitioner, accused in C.R. No.0489 of 2023 dated 25th October, 2023, registered with Charkop Police Station, Mumbai, under Section 380 of the Indian Penal Code has filed present Petition under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, for quashing of the said crime with the consent of Respondent No.2, the informant.

2) Learned Advocate for the Petitioner submitted that, during the pendency of Bail Application of the petitioner before the learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai, the parties herein have settled their disputes and differences amicably and the Petitioner has repaid the amount of Rs.3 lacs allegedly involved in the present crime to the Respondent No.2. That, the Respondent No.2 has executed an Affidavit dated 20th November, 2023 in the said Bail Application. That, the said Affidavit is annexed at page No.26 to the Petition. He therefore prayed that, the said crime may be quashed with consent of Respondent No.2.

3) Learned Advocate for Respondent No.2 tendered across the bar his Affidavit dated 22nd December, 2023, duly affirmed before a Notary Public. In paragraph (e) thereof, Respondent No.2 has admitted the fact of receipt of payment of Rs.3 lacs and amicable settlement of disputes between the parties due to intervention of common friends. In paragraph (f) thereof, he has given his no objection for quashing of present crime.

3.1) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 22nd 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.R. No.0489 of 2023 dated 25th October, 2023, registered with Charkop Police Station, Mumbai.

4.1) As we expressed our opinion for quashing of said C.R. No.0489

of 2023 dated 25th October, 2023, registered with Charkop Police Station, 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 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 the receipt of the same in the Registry of this Court.

5) In view of the above and subject to payment of cost by Petitioner, Petition is allowed in terms of prayer clause (a).

- 6) It is made clear that, if the cost is not paid by the Petitioner within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the police will proceed with investigation of the said case expeditiously.
- 7) List the Petition on 12th January, 2024 under the caption '*for reporting compliance*' of present 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:
2023.12.26
14:55:32 +0530