

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

**CRIMINAL WRIT PETITION NO.232 OF 2024**

Subhash Atmaram Sharma

.... Petitioner

versus

The State of Maharashtra & Ors.

.... Respondents

.....

- Mr. Madhukar P. Dalvi a/w Shivam S. Dube, Advocate for Petitioner.
- Mr. Anand S. Shalgaonkar, APP for the State/Respondent.
- Mr. Dilip B. Shinde a/w Mohan C. Kumbhar i/b. Pravin P. Mengane, Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL &  
DR. NEELA GOKHALE, JJ.  
DATE : 10<sup>th</sup> DECEMBER, 2024**

**P.C. :**

1. This Petition is filed for quashing of the FIR registered vide C.R.No.442/2023 dated 24/08/2023 at Rajarampuri Police Station, Kolhapur, u/s 406, 420 of the Indian Penal Code.

2. Heard Mr. Madhukar P. Dalvi, learned Counsel for the Petitioner, Mr. Dilip B. Shinde, learned counsel for the Respondent No.2 and Mr. Anand S. Shalgaonkar, learned APP for the State.

3. The FIR is lodged by the Respondent No.2 (first informant). He has stated that he is the proprietor of the firm by the name Krishnai Earth Movers Firm. He was in the business of taking mining contracts. In 2014, he got acquainted with the Petitioner through a common friend. The Petitioner represented to him that he was a Managing Director of Warana Minerals (India) Pvt. Ltd. The Petitioner told the informant that their firm was given permission for mining Bauxite and that he was willing to give that contract to the informant. The area was at Yelwan Jugai, Taluka Shahuwadi, District Kolhapur and he was given permission to carry out mining in the area admeasuring 267 Hectors. They entered into an agreement dated 02/10/2014. The Petitioner told the informant that he had all the necessary permissions, license and work order. But he did not actually show those documents to the informant. The area where mining was to be carried out was difficult to access and therefore, the informant constructed a road by using his own money. He carried out preparation. It is further mentioned in the FIR that the informant conducted mining operations for 63,000 Metric Tonnes of Bauxite. About 35,000 metric tonnes of Bauxite were

stored at Pandharpani in a place taken on lease by the Petitioner. The remaining part was kept at the site itself. The expenses incurred by the informant for the preparations etc. were to the tune of Rs.1.80 Crores, out of which the Petitioner had paid Rs.1.50 Crores. The Petitioner had accepted around Rs.20 Crores in respect of the Bauxite taken out by the informant. But the amount was not given to the informant; who was entitled to get Rs.1,51,20,000/-. On these allegations, the FIR is lodged.

4. The investigation is still going on. The parties have settled the matter and have entered into a memorandum of understanding. The informant has also filed affidavit before this Court mentioning specifically that the transaction was purely personal and private in nature and he did not have any objection if the subject FIR was quashed and set aside.

5. Learned APP has produced a report of the investigating agency in which it is specifically mentioned that the Petitioner had the requisite permission for conducting mining operations in that area. They were conducted in the area specifically for those

operations. The Petitioner has also paid royalty to the District Collector. It is specifically mentioned in the report that the Government has not suffered any loss in this transaction.

6. Considering this situation and since the dispute was purely personal between the parties, it was commercial in nature and since the Government or the society is not put to loss, we are inclined to allow this Petition.

7. Hence, the following order :

### **ORDER**

(i) The FIR registered vide C.R.No.442/2023 dated 24/08/2023 at Rajarampuri Police Station, Kolhapur and the further proceedings arising out of the said FIR, are quashed and set aside.

(ii) The Petition is disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)