

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

CRIMINAL WRIT PETITION NO. 1037 OF 2023

Mr. Vivek Kumar s/o. Rajendra Sing
and anr.

.... Petitioners

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Sachin Chandan for the Petitioners.
Ms. Rutuja Ambekar, APP for the State.
Mr. Balwant Salunkhe for the Respondent No.2.

**CORAM: SMT. ANUJA PRABHUDESSAI AND
N.R. BORKAR, JJ.**

DATED : 04th JANUARY, 2024.

P. C. :-

. With consent, heard finally at the stage of admission.

2. By this Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks to quash C.R.No.I-283/2021 registered with BKC Police Station, Mumbai for the offences punishable under Sections 419, 420, 467 r/w. 34 of the Indian Penal Code.

3. The aforesaid crime was registered pursuant to the FIR lodged by Shirish Purushottam Tidke. The Respondent No.2/first informant has

alleged that he was induced by the co-accused – Sayed Ali (Badshah Khan) to invest money in the Company – Shine India of which the Petitioners are the Directors, on an assurance that he would get double amount within 10 days. The Respondent No.2 claims that he has invested total amount of Rs.20,00,000/- and that the co-accused Sayed Ali (Badshah Khan) has given him a cheque of Rs.20,00,000/- towards part payment of the invested amount. The said cheque bounced in view of the discrepancy of the signature on the cheque. It is stated that subsequently, the Respondent No.2 was unable to contact the said co-accused – Sayed Ali (Badshah Khan). Having realized that he was cheated, Respondent No.2 lodged the FIR against co-accused – Sayed Ali (Badshah Khan) as well as the present Petitioners.

4. The Respondent No.2 had filed his affidavit dated 18/02/2023 stating that he has settled the dispute and differences with the Petitioners and that he does not wish to proceed against the present Petitioners. The Respondent No.2 has made a statement that he has received Rs.9,00,000/- as per the order dated 24/01/2023 passed by the learned Metropolitan Magistrate, Bandra and Demand Draft drawn for Rs.11,00,000/- dated 25/01/2023 drawn on ICICI Bank. He has therefore given his no objection to quash the FIR. Accordingly, by

order dated 30/03/2023, this Court had allowed the Petition for the reasons which were separately recorded. However, on 06/04/2023, the Co-ordinate Bench of this Court recalled the order observing the fact that it was not brought to the notice of the Court that the co-accused has not filed an application for quashing of the FIR and it was necessary to examine whether there was any nexus between the Petitioners and the co-accused.

5. Heard learned counsel for the Petitioners, learned APP for the State and learned counsel for the Respondent No.2. We have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. Learned counsel for the Respondent No.2, under instructions, states that the Respondent No.2 has received an amount of Rs.20,00,000/- and that he does not wish to proceed against the Petitioners. Learned counsel for the Respondent No.2 states that the Respondent No.2 was present before the Court on 30/03/2023 on which date this Court had allowed the Petition on the basis of the affidavit filed by the Respondent No.2.

7. The records reveal that the Respondent No.2 has settled the dispute with the Petitioners herein. He has received the amount and he does not wish to proceed against the Petitioners. Considering the nature of the allegations attributed to the Petitioners and the settlement arrived between the parties and in view of the principles laid down by the Apex Court in *Narinder Singh v/s. State of Punjab, 2014 AIR SCW 2065* and *Gian Singh v/s. State of Punjab and another, (2012) 10 SCC 303*, in our considered view, the crime can be quashed qua the Petitioner.

8. Hence, the Petition is allowed. C.R.No.I-283/2021 registered with BKC Police Station, Mumbai stands quashed qua the Petitioners subject to the Petitioners and the Respondent No.2 jointly paying costs of Rs.20,000/- in the account of Mumbai Police Welfare Fund, within a period of 07 days from the date of this order.

9. Stand over to **16/01/2024** for compliance.

PREETI
HEERO
JAYANI

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PREETI HEERO
JAYANI
Date: 2024.01.12
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(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)