

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1271 OF 2024**

- | | | |
|----|---------------------------|----------------|
| 1. | Surendran G. Nair | |
| 2. | Vishal S. Nair | ...Petitioners |
| | Versus | |
| 1. | The State of Maharaashtra | |
| 2. | Krishnakumar S. Agarwal | ...Respondents |

Mr.P.G. Sabnis with Ms Kashmira Khedekar for the Petitioner.
Ms Rutuja Ambekar, APP for the Respondent.
Ms Devashri G. Karandikar for Respondent No.2.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.**
DATE : 23.04.2024.

PC:-

1. The present petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure is filed to quash First Information Report (FIR) No.117 of 2014 dated 30.08.2014 registered at Colaba Police Station, Mumbai (on transfer to E.O.W., Unit-III, Mumbai re-registered as FIR No.74 of 2014) for the offences punishable under Sections 120-B, 406 and 420 of the Indian Penal Code and the criminal proceedings arising out of said FIR being C.C.No.168/PW/2015 and C.C.No.474/PW/2017 pending in the Court of Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai.

2. The aforesaid crime came to be registered against the petitioners at the instance of respondent No.2/complainant. The complainant is CEO of M/s. Responsive Industries Ltd. According to the complainant, they were in need of loan to

augment their business. It is alleged that the present petitioners and other co-accused had duped them to the tune of Rs.7.5 crores on the pretext that they would arrange loan of Rs.500 crore for them from SBI.

3. The quashing of FIR and the criminal proceedings is sought on the ground that there has been an amicable settlement between the parties.

4. The learned counsel for the petitioners and respondent No.2 jointly submit that the parties have amicably settled their dispute and filed the consent terms to that effect alongwith present petition. It is submitted that the petitioners are going to pay Rs.2.5 Crores to respondent No.2 within two months from the date of quashing of the criminal proceedings in question. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties.

5. The respondent No.2 is present in the Court. He has tendered the consent affidavit along with copy of Resolution dated 5.4.2024 passed by the Board of Directors of M/s.Responsive Industries Limited authorising him to extend consent for quashing of criminal proceedings in question. He confirms about the settlement arrived at with the petitioners, and the contents of the consent affidavit dated 2.4.2024, wherein he has stated that he has no objection if the criminal case in question against the petitioners is quashed.

6. The genesis of the crime appears to be financial dispute between the parties. The allegations are totally personal in nature. In view of the settlement between the parties, the respondent No.2 is not going to support the prosecution case against the petitioners and therefore, the possibility of conviction is remote and bleak. Considering the overall facts and circumstances, it would be expedient to quash the FIR and the criminal proceedings *qua* the petitioners. In the result, the following order is passed.

ORDER

- a] Criminal Writ Petition is allowed.
- b] The proceedings in C.C.No.168/PW/2015 and C.C.No.474/PW/2017 pending in the Court of Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai arising out of FIR No. 117 of 2014 dated 30.08.2014 registered at Colaba Police Station, Mumbai (on transfer to E.O.W., Unit-III, Mumbai re-registered as FIR No.74 of 2014) for the offences punishable under Sections 120-B, 406 and 420 of the Indian Penal Code are quashed and set aside *qua* the petitioners, subject to payment of costs of Rs.50,000/- each by the petitioners.
- c] The petitioners shall pay the costs to the Advocates' Association of Western India Generation Next within a period of three weeks from the date of uploading of this

order and submit the receipt of same in the Registry of this Court. The details of the bank account for payment of costs 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

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)