

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1549 OF 2011**

Prasad Vaman Gawde

.....Petitioner

Vs.

Anand Dattaram Matkar & Anr.

.....Respondents

Mr. Darshan Juikar i/by Adv. M. G. Shukla for the Petitioner.

Mr. S.S. Redij for the Respondent No.1.

Mrs. A.A. Takalkar APP, for the Respondent No.2-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 29th JANUARY, 2024.****PC:-**

1) Petitioner has filed present Petition for quashing of C.C. No.207/PW/2011 pending on the file of Metropolitan Magistrate, 5th Court, Dadar, Mumbai arising out of C.R. No.2 of 2010 dated 1st October, 2010 registered with Shivaji Park Police Station, Mumbai, under Sections 378, 405 and 420 of the Indian Penal Code, with the consent of Respondent No.1, the Complainant.

1.1) Record indicates that, initially the Petition was filed for quashing of the said case on merits and by an Order dated 5th December, 2011, Rule and interim relief was granted in favour of the Petitioner.

2) Learned Advocate for the Petitioner submitted that, during the pendency of present Petition, in First Appeal No.848 of 2009, before the learned Single Judge of this Court, the civil dispute between the parties herein was referred for mediation. Subsequently, in the said First Appeal, Consent Terms dated 14th December, 2023 were filed. In the Consent Terms, the Respondent No.1 has agreed for giving his consent for quashing of present complaint. He therefore prayed that, the said case may be quashed with consent of Respondent No.1.

3) Learned Advocate for Respondent No.1 tendered across the bar his Affidavit dated 20th January, 2024, duly affirmed before the Assistant Registrar of this Court. Respondent No.1 has admitted the fact of amicable settlement and filing of Consent Terms dated 14th December, 2023 in First Appeal No.848 of 2009 before this Court. In paragraph No.3 thereof, he has given his no objection for quashing of the said case.

3.1) Respondent No.1 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 20th January, 2024, and his 'no objection' for quashing of the crime in question.

4) In view thereof, we are inclined to quash C.C. No.207/PW/2011 pending on the file of Metropolitan Magistrate, 5th Court, Dadar, Mumbai arising out of C.R. No.2 of 2010 dated 1st October, 2010 registered with Shivaji Park Police Station, Mumbai.

5) As we expressed our opinion for quashing of said C.C. No.207/PW/2011 pending on the file of Metropolitan Magistrate, 5th Court, Dadar, Mumbai arising out of C.R. No.2 of 2010 dated 1st October, 2010 registered with Shivaji Park Police Station, Mumbai, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.25,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order. The said statement is accepted as an undertaking given to this Court.

6) We therefore direct the Petitioner to pay a cost of Rs.25,000/- to the 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) Petitioner to deposit the said cost within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

- 7) In view of above and subject to payment of cost, Petition is allowed in terms of prayer clause (c).
- 8) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand automatically revived and in that event, the trial Court will proceed with the case expeditiously.
- 9) List the Petition on 20th February, 2024 under the caption '*for reporting compliance*' of present Order.
- 10) 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: 2024.02.01
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