

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

CRIMINAL WRIT PETITION NO.765 OF 2024

Nainesh Manilal Panchal

.....Petitioner

Versus

The State of Maharashtra
and others

.....Respondents

Mr. Sachin Thorat, Advocate a/w. Prajwal Thorat for the
Petitioner.

Mr. Ashish I. Satpute, APP for the Respondent Nos.1 & 2-State.

Ms. Dnyaneshwari S. Utpat, Advocate for the Respondent No.3

**CORAM : SARANG V. KOTWAL &
DR.NEELA GOKHALE, JJ.**

DATE : 23rd OCTOBER, 2024

P.C. :

1. This is a Petition for quashing of FIR registered vide C.R. No.I-325/2018 at Kasarvadavali police station, Thane under Section 420 of IPC. The investigation is over and the charge-sheet is filed. The trial is pending vide R.C.C.No.1021/2022 before the J.M.F.C. Thane.

2. Heard Mr. Sachin Thorat, learned counsel for the Petitioner, Mr. Ashish Satpute, learned APP for the Respondent Nos.1 & 2-State and Ms. Dnyaneshwari Utpat, learned counsel for the Respondent No.3

3. The FIR is lodged by the Respondent No.3. The FIR describes that the Petitioner on two occasions, took delivery of nine air-conditioners and five air-conditioners for selling it further by representing to the informant that he has his own shop and he would sell them on commission. The informant had his own showroom at Bhiwandi. After delivery was taken by the Petitioner, the price of the air-conditioners was not paid. Some excuses were given. Some cheques were given which were dishonored and thus the informant suffered losses to the tune of Rs.4,24,900/-.

4. Subsequently, now the matter is settled between the parties and the consent affidavit is filed by the Respondent No.3. He has mentioned in the consent affidavit that the matter is settled for Rs.3,75,000/- and that the Respondent No.3 has no objection for quashing of the FIR and the resulting trial pending before the learned J.M.F.C.. He has also given consent to allow the Petitioner to withdraw Rs.4,24,900/- deposited by him in this Court in connection with the same subject matter pursuant to the order dated 18.3.2019 passed in Anticipatory Bail Application No.671/2019.

5. The first informant – Respondent No.3 is present in

the Court. He is identified by his counsel. He stated before the Court that whatever stated in the affidavit is correct and he has no objection for quashing of the proceedings and for the Petitioner withdrawing the amount which he has deposited in the Court.

6. The dispute between the parties is purely personal and commercial in nature. Therefore, we are inclined to allow this Petition.

7. However, before passing the operative part, we must note a disturbing feature in this case. The Petitioner has annexed a complaint dated 20.12.2018 submitted to the Commissioner of Police, Thane City in which there are specific allegations against the particular police officers. The contention of the Petitioner is that he had supplied air-conditioners, water coolers, computers, LED TV, printers etc. to Kasarvadavali police station, Thane and personally to a particular police officer. He was not given his money inspite of constantly pursuing his demands. The Petitioner is also present in the Court. He submitted that nothing came out of that complaint and his articles were returned but he had suffered heavy losses because of this, which resulted in his default in making payment to the first informant. The allegations in the

complaint are quite serious. First of all it is hard to understand as to how the police officers from a particular police station can take such expensive articles from a private party without following due procedure. Secondly, if the allegations are true, some serious action needs to be taken. Therefore, we are inclined to issue some directions in that behalf as well.

8. Hence, the following order:

:: O R D E R ::

- i. The Petition is allowed.
- ii. The F.I.R. registered vide C.R. No.I-325/2018 at Kasarvadavali police station, Thane under Section 420 of IPC as well as the subsequent proceedings being R.C.C.No.1021/2022 pending before the J.M.F.C. Thane, are quashed and set aside.
- iii. The Petitioner is permitted to withdraw the amount of Rs.4,24,900/- which he has deposited in this Court pursuant to the order dated 18.3.2019 passed in Anticipatory Bail Application No.671/2019.
- iv. The Director General of Police, Maharashtra State, is requested to appoint a suitable police officer from the

State C.I.D. of the rank of Deputy Commissioner of Police or of equal rank to conduct an inquiry in the complaint dated 20.12.2018 which is annexed at Exhibit-B to this Petition. The said appointed Officer shall conduct an inquiry expeditiously and in any case within a period of three months from today and submit a report before this Court.

- v. The matter be placed before this Court on 5.2.2025 for further consideration.
- vi. It is made clear that the Petition is disposed of as far as the Petitioner and the Respondent No.3 are concerned. However, it is kept pending for compliance of the directions issued hereinabove.
- vii. Stand over to 5.2.2025.
- viii. The Registry shall forthwith send a copy of this order and the Petition to the Director General of Police, Maharashtra State .

(DR.NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)