

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2498 OF 2024**

1. Hemaxiba Aniruddhsinh Dodiya,
Age : 39 years, Adult, Occ.: Business.

2. Aniruddhsinh Joravarsing Dodiya,
Age : 55 years, Occ.: Business.

Both having office at : 413-428, 4th Floor,
Aristo Aura, Bhayli, Vadodra, Gujarat.

3. Joyal Kanubhai Oza,
Age : 39 years, Adult, Occ.: Business,
Block No. 250, Nr. Santhal Railway
Crossing Santhal, Ahmedabad-382210.

4. Akshay Shantilal Chaplot,
Age : 29 years, Adult, Occ.: Service,
Address at 1, Platinum Shop No. 1,
Shivaji Arcade, APMC Market, Vashi,
Navi Mumbai.

5. Sunil Pathak,
Age : 43 years, Adult, Occ.: Service,
Office at : 413-428, 4th Floor, Aristo Aura,
Bhayli, Vadodra, Gujarat.

.....Petitioners

Vs.

1. The State of Maharashtra
through the office of Public Prosecutor
through Nerul Police Station.

2. Vijaykumar Gajendra Singh,
Aged 45 years, Occ.: Service,
Having address at Office No. 03,
Neighborhood Premises, Co-op. Society,
Plot Nos. 10-11, Sector – 4, Nerul,
Navi Mumbai.

.....Respondents

Mr. Nikhil Ghate i/b Ms. Dhruti P. Chheda for the Petitioners.
Mr. A. I. Satpute, APP for the Respondent No. 1-State.
Mr. Vinod Gupta i/b Ms. Akanksha Pandey for the Respondent No. 2.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.
DATE : 24th JUNE 2024.**

JUDGMENT (Per Dr. Neela Gokhale, J.) :-

- 1) Rule. Rule is made returnable forthwith. With consent of the parties, matter is taken up for final disposal. Learned APP waives notice on behalf of the Respondent No. 1-State. Mr. Nikhil Ghate and Mr. Vinod Gupta, learned counsels represent the Petitioners and the Respondent No. 2 respectively.
- 2) The Petitioners seek to quash and set aside First Information Report (“FIR”) No. 429 of 2023 dated 17th September 2023 registered with the Nerul Police Station, Navi Mumbai for the offenses punishable under Sections 406, 420 & 506 read with 34 of the Indian Penal Code, 1860 (“IPC”) filed by the Respondent No. 2 (“Complainant”).
- 3) The Petitioners and the Respondent No. 2 are businessmen. There was an Agreement between the parties regarding sale of a Horizontal Directional Drilling (“HDD”) machine of Vermeer Company for a consideration of Rs. 30,00,000/- plus Goods and Services Tax. A dispute arose between the parties in respect of payment of the agreed consideration in lieu of the said machine leading to the Complainant filing a FIR impugned herein in the Nerul Police Station.

4) During the pendency of the investigation, the parties decided to amicably resolve their dispute. A copy of Consent Terms dated 10th April 2024 is placed on record. Consent Affidavit dated 22nd June 2024 of Complainant attested by a Notary Public is also placed on record. Vide the Consent Terms, the parties have agreed to settle their monetary claims and as per clause (q) of the said Agreement, the Petitioners have handed over a Demand Draft of Rs. 20,00,000/- in favour of 'Relier Associates' i.e. the Company of the Complainant to the counsel of the Complainant before this Court. The Complainant acknowledges the receipt of the said Demand Draft.

5) In the Consent Affidavit, the Complainant has stated that he wishes to withdraw the allegations against Petitioners and is not desirous of pursuing the prosecution against them. He has also stated that, in view of the settlement, he has no objection to quash the impugned FIR.

6) The Petition is accordingly allowed. FIR No. 429 of 2023 dated 17th September 2023 registered with the Nerul Police Station, Navi Mumbai for the offenses punishable under Sections 406, 420 & 506 read with 34 of the IPC is hereby quashed and set aside subject to the Petitioners making a payment of Rs. 10,000/- each to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of four weeks from the date of uploading of present Judgment on the official website of Bombay High Court.

6.1) 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 :- BKID00000001.

6.2) The Petitioners to deposit the said cost of Rs. 10,000/- each 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 the cost, Petition is allowed in terms of prayer clause (a).

8) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the Investigating Officer shall complete the investigation of the present crime expeditiously.

9) Rule is accordingly made absolute in the aforesaid terms.

10) List the Petition on board on 18th July 2024, under caption 'For Reporting Compliance' of the present Judgment.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

GITALAXMI
KRISHNA
KOTAWADEKAR

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