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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2678 OF 2024

Mohd.Aminuddin M. Ansari & Anr. …Petitioners
V/s.
The State of Maharashtra & Anr. ..Respondents

Mr.Vahid Shaikh with Mr.Owais Jagirdar, Mr.Abdul Waheb Shaikh and Mr.Ibrahim Sayyed for the Petitioners.

Mr.Ajay Patil, APP for the State – Respondent No.1.

Mr.Vikramjeet M. Siram with Akanlesha Tipnis and Mehernaz Contractor i/b Akshay Bafna, C/o Bafna Law Associates for Respondent No.2.

CORAM : SARANG V. KOTWAL &
DR.NEELA GOKHALE, JJ.
DATE : 15TH OCTOBER, 2024.

P.C. :-

1. This is a Petition for quashing of the FIR registered vide C.R. No.248 of 2019 dated 20.06.2019 registered at Mulund Police Station under Sections 419, 420 read with Section 34 of the Indian Penal Code along with sections 66C and 66D of Information Technology Act, 2000. The investigation is

over and the charge-sheet is filed bearing No.371//PW/2022 before the Metropolitan Magistrate, 27th Court, Mulund, Mumbai. The prayer is for quashing of the charge-sheet as well.

2. Heard. The FIR is lodged by one Mr.Anish Joshi who was working as an Associate Vice President with M/s.Ergode IT Services Private Limited. The informant company was looking after the back office of M/s.Ami Ventures Inc. The parent company had 18 websites of their own and they were also using 82 other websites for transactions in books, electronic products, games, beauty products, food, cloths etc. on line. The amount received by the informant company by selling products through some of the websites was directly deposited in their own bank account and for certain websites, they used to get the amount through the companies like Paypal. The informant company had business merchant account with Paypal in the name of M/s.Ami Ventures Inc. The informant company i.e. M/s.Ergode IT Services Private Limited was given permission by M/s.Ami Ventures Inc. to use their Paypal merchant account and for that purpose, an account ID was being used by the informant

company. The FIR mentions that they came to know that between 11.03.2019 to 29.05.2019, on 14 occasions US$ 54,507.13 were transferred from their business merchant account in the account of user ID woodwardsoftware@yahoo.com. That was around Rs.34.00 lakhs in Indian currency. However, there was no such transaction entered into by the informant company. Therefore, they realized they have suffered loss to the tune of that amount and therefore, the FIR was lodged.

3. The investigation revealed that the Petitioner No.1 was working with the informant company. He had authorized some forged invoices and thereby, this amount was transferred from the informant company's account to the aforesaid user ID and from there it was transferred to the Petitioner No.1's own bank account. That is how the offence was committed.

4. Subsequently, now the matter is settled between the Petitioners and the first informant company. The informant company has taken a very lenient view of the situation considering the young age of the Petitioner No.1. The informant

company also considered that he was their permanent employee and that he was jobless after he was removed from the company. These are the submissions made by the learned counsel for Respondent No.2. The consent terms are produced on record and a specific affidavit is also produced on record affirmed by Respondent No.2 on behalf of the first informant company. In that affidavit, it is clearly mentioned that Respondent No.2 has no objection if the said FIR is quashed and set aside.

5. Learned APP on instructions submitted that the Investigating Agency has not found out any other offence attributable to the present Petitioners. As far as Petitioner No.2 is concerned, there are allegations that some part of the amount was transferred in her account.

6. Thus it can be seen that the Petitioner No.1 had caused loss to the informant company, but it was purely between him and his former employer. The society at large was not involved. The informant company has forgiven him and has entered into the consent terms and has given no objection for quashing of the FIR. Considering this settlement, in the interest of justice, we are

inclined to allow this Petition on the condition that Petitioner No.1 deposits costs of Rs.25,000/- with the Armed Forces Battle Casualties Welfare Fund within a period of six weeks from today.

7. The details of the Bank Account for payment of cost are as under :-

Bank Name :- Canara Bank

Branch Name :- South Block, Defence Headquarters, New Delhi – 110 011

Account Name :- Armed Forces Battle Casualties Welfare Fund
Account Number :- 90552010165915

IFSC Code :- CNRB0019055

8. It is made clear that this conditional order is subject to the condition of payment of costs within the stipulated period by Petitioner No.1. Hence the following order is passed :-

O R D E R

a). The FIR registered vide C.R. No.248 of 2019 dated 28.06.2019 registered at Mulund Police Station under Sections 419, 420 read with Section 34 of the Indian Penal Code along with section 66D of Information Technology Act, 2000 is quashed and set-aside and consequential charge-sheet filed bearing No.371/PW/2022 before Metropolitan Magistrate, 27th Court, Mulund, Mumbai is also quashed and set aside subject to Petitioner No.1 making payment of costs of Rs.25,000/- to Armed Forces Battle Casualties Welfare Fund within a period of six weeks from today.

b). If such payment is made by Petitioner No.1, he shall produce the proof of such payment before the Registry of this Court and there shall not be any further reference to the Court. If such proof is not submitted to the Registry, the matter be placed on board for further consideration. It is made clear that in such eventuality, this order is liable to be recalled and set-aside.

c). With the above observations, the Petition is disposed of.

(DR.NEELA GOKHALE, J.) ***(SARANG V. KOTWAL, J.)***