

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2844 OF 2024**

1. Shailendra Rambharoselal Thakur
Age: 59 yrs, Occupation: Service
303, Borivali Samarpan CHS Ltd.,
Rokadia Cross Lane, Borivali West,
Mumbai 400 092
2. Parag Jaisukh Salot
Age: 42 yrs., Occupation: Service
402, Borivali Samarpan CHS Ltd.,
Rokadia Cross Lane, Borivali West,
Mumbai 400 092.
3. Himmatlal Vanmalidas Shah
Age: 80 yrs, Occupation: Service
202, Borivali Samarpan CHS Ltd.,
Rokadia Cross Lane, Borivali West,
Mumbai 400 092
4. Arvind Sonmal Shah
Age: 59 yrs, Occupation: Business
A-104, Star Apartment, Shripal Complex,
Agashi Road, Near Petrol Pump,
Virar West, Thane.
5. Sangeeta Arvind Shah
Age: 50 yrs., Occupation: Business
A-104, Star Apartment, Shripal Complex,
Agashi Road, Near Petrol Pump,
Virar West, Thane.
6. Rajendra Gulabchand Shah
CFO of M/s. Konark Structural Engineers Pvt. Ltd.,
A company incorporated under the Indian
Companies Act, 1956 having its registered
office 7' 1st Floor, Roshan Apsara CHS Ltd.
Roshan Nagar, Borivali West, Mumbai 400092

7. Manish Narendra Kasliwal
Aged: 39 years, Occupation: Business
CEO of M/s. Konark Structural Engineers Pvt. Ltd.,
A company incorporated under the Indian
Companies Act, 1956 having its registered
office 7' 1st Floor, Roshan Apsara CHS Ltd.
Roshan Nagar, Borivali West, Mumbai 40009Petitioners

Vs.

1. State Of Maharashtra
(At the instance of Borivali Police Station)

2. Satish Agarwal
Aged: 60 years, Occupation: Business
Adult Indian Inhabitant, Having address at:
B/8, Nav Prabhat CHS, Sant Janabai Marg,
Near Greater Bombay Bank,
Vile Parle (East), Mumbai 400 057Respondents

Ms. Sanjana Pardeshi, for the Petitioners.
Mr. Vinod Chate APP, for Respondent No.1-State.
Mr. Harshil Gandhi, for Respondent No.2.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.
DATE : 27th AUGUST, 2024.**

PC:-

1) The Petitioners seek quashing of the criminal proceeding bearing C.C.No.4593/PW/2022 pending before the Additional Chief Metropolitan Magistrate, 26th Court, Borivali, Mumbai arising from FIR No.994 of 2021 dated 30th August 2021 registered with Borivali Police Station, Mumbai for the offences punishable under Section 341, 448, 323, 504, 506, 143, 147, 149, 188, 269 of the Indian Penal Code, 1860 ('IPC')

and Section 51(1)(B) of the Disaster Management Act, 2005 read with 37(3) and 135 of the Maharashtra Police Act, 1951.

2) The dispute between the parties arose on account of some transaction between the company namely, M/s. Konark Structural Engineers Private Limited, of which the Petitioners are directors and representatives on one side and the Respondent No.2 on the other. The Company was to redevelop the society of the Respondent No.2. It is also alleged that the Petitioners violated the provisions of the Disaster Management Act during the Corona Pandemic period. Thus, the FIR came to be lodged.

3) The parties have now decided to resolve their disputes amicably and have thus sought quashing of the criminal proceedings. The Respondent No.2 has filed an Affidavit dated 30th May 2024 duly affirmed before a Notary Public. In paragraph number 4 thereof, he has stated that he has no objection to quash the subject criminal proceedings. He has stated that the FIR was lodged by him on account of commercial misunderstanding which has now been resolved to his satisfaction.

4) Ms. Sanjana Pardeshi, learned Counsel appears for the Petitioners and Mr. Harshil Gandhi, learned Counsel appears for the Respondent No.2. Mr. Vinod Chate, learned APP represents the State.

5) The Respondent No.2 is present in the Court and through his counsel reiterates the statements in the Affidavit. We accept the same.

6) In view thereof, we are inclined to quash criminal proceeding bearing C.C.No.4593/PW/2022 pending before the Additional Chief Metropolitan Magistrate, 26th Court, Borivali, Mumbai arising from FIR No.994 of 2021 dated 30th August 2021 registered with Borivali Police Station, Mumbai for the offences punishable under Section 341, 448, 323, 504, 506, 143, 147, 149, 188, 269 of the IPC and Section 51(1)(B) of the Disaster Management Act, 2005 read with 37(3) and 135 of the Maharashtra Police Act, 1951.

7) As we expressed our opinion for quashing of the criminal proceeding bearing C.C.No.4593/PW/2022 pending before the Additional Chief Metropolitan Magistrate, 26th Court, Borivali, Mumbai arising from FIR No.994 of 2021 dated 30th August 2021 registered with Borivali Police Station, Mumbai, learned Counsel for the Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.15,000/- each totalling to Rs.1,05,000/- jointly or severally to the Armed Forces Battle Casualties Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of High Court of Bombay. The said statement is accepted as an undertaking to the Court.

8) In view thereof, we direct Petitioners to pay the cost as noted herein above to the Armed Forces Battle Casualties Welfare Fund within a period of two weeks from the date of uploading of present Order on the official website of High Court of Bombay.

8.1) Details of the bank account for payment of cost are as under :-

Name of Fund :- Armed Forces Battle Casualties Welfare Fund.

Bank Name :- Canara Bank

Branch Name :- South Block, Defence Headquarters,
New Delhi-110011.

Account Number :- 90552010165915

IFSC Code :- CNRB0019055

Type of Acct :- Saving

9) Petitioners to deposit the said cost within stipulated period as noted above and submit receipts of the same in the Registry of this Court.

10) In view of above and subject to payment of costs, Petition is allowed in terms of prayer clause (a).

11) It is made clear that, if the said costs are not paid within stipulated period by either of the parties as mentioned above, the Petition shall stand revived automatically and in that event, the trial Court shall proceed with the criminal proceedings expeditiously.

12) List the Petition on board on 18th September 2024, under caption 'for reporting compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

Digitally
signed by
SHAMBHAVI
NILESH
SHIVGAN
Date:
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