



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3250 OF 2024

Sanjay s/o. Shrirang Sonane,
Age: 45 years, Occu: Government
Servant, R/o. Pushpanjali Bhavan,
Shiv Nagar Behind Rest House Patur,
District Akola.

.....Petitioner

Vs.

1. State of Maharashtra,
Through Police Officer,
Navghar Police Station,
Mulund, District Mumbai.

2. Dr. Triveni Pundalik Lohar,
Age: about 48 years,
Occu: Government Servant
R/o. 20, Sagar Tirth, Bhoir Nagar,
Mulund (East), Mumbai – 081.

.....Respondents

Mr. Himanshu J. Patil, i/b. Mr. Rahul D. Salve, for the Petitioner.
Mr. Ashish I. Satpute, APP, for Respondent No.1-State.
Mr. Piyush Todkar, for Respondent No.2.

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

PC.:

1) Leave to amend to incorporate challenge to
C.C.No.PW/543/2024, pending on the file of learned Judicial Magistrate
First Class (Court No.27), Mulund, Mumbai is granted.

1.1) Amendment be carried out forthwith and in any event, during
the couse of the day.

2) Petitioner seeks to quash criminal proceedings bearing C.C.No.PW/543/2024 pending on the file of learned Judicial Magistrate First Class (Court No.27), Mulund arising out of F.I.R.No.122 of 2024 dated 5th June 2024 registered with Navghar Police Station, Brihanmumbai City for offence punishable under Section 406 of the Indian Penal Code, 1860 ('IPC').

3) The dispute between the parties arose out of entrustment of car by Respondent No.2 to Petitioner. It was alleged that, the Petitioner dishonestly misappropriated the said car for his own use and committed criminal breach of trust leading to file the F.I.R. impugned herein culminating the criminal proceeding against the Petitioner.

4) Mr. Himanshu Patil, learned counsel appears for the Petitioner and Mr. Piyush Todkar, learned counsel appears for the Respondent No.2. Mr. Ashish Satpute, learned APP represents the State.

5) Learned counsels of both the Petitioner as well as the Respondent No.2 state that, considering the decision of the parties to resolve their dispute by amicable settlement, Respondent No.2 has filed her consent Affidavit dated 1st August 2024 duly affirmed before a Notary Public. In paragraph No.4 it is stated that, Petitioner has returned the said car to Respondent No.2. In paragraph No.10 thereof, she has given her no objection to quash and set aside the criminal proceedings.

- 6) Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 1st August 2024 and her 'no objection' for quashing of the crime in question.
- 7) Considering the facts in the present case and the consent Affidavit of Respondent No.2, we are inclined to quash criminal proceedings bearing C.C.No.PW/543/2024 pending on the file of learned Judicial Magistrate First Class (Court No.27), Mulund arising out of F.I.R.No.122 of 2024 dated 5th June 2024 registered with Navghar Police Station, Brihanmumbai City.
- 8) As we expressed our opinion for quashing the said criminal proceeding, Mr. Patil, learned counsel appearing for the Petitioner on instructions submits that, the Petitioner will pay Rs.25,000/- (Rupees Twenty Five Thousand Only) 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 Bombay High Court. The said statement is accepted as an undertaking given to this Court.
- 9) In view thereof, we direct the Petitioner to pay the cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) 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.

9.1) 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

9.2) Petitioner to deposit the said cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

10) In view of the above and subject to payment of cost by the Petitioner, Petition is allowed in terms of prayer clauses (a) and (d).

11) It is made clear that, if the cost is not paid by the Petitioner within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the trial Court shall proceed with the criminal proceeding expeditiously.

12) List the Petitions on board on 15th October 2024, under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)