



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3723 OF 2024

Bipin Babulal Kothari,
Age 40 years, Occupation: Business,
Permanently Residing at Room No.403,
Gulalwadi, Kika Street, Pipwala Building,
Gulalwadi, Mumbai – 400 004.
Currently Residing at Room No.216,
2nd Floor, Ranveer Sadan,
Dr. Babasaheb Ambedkar Road,
Lalbaug, Mumbai – 400 012.

.....Petitioner

Vs.

1. The State of Maharashtra,
(At the instance of L. T. Marg Police Station)
2. Bikash Ashok Samanta,
Indian Inhabitant, Aged 39 years,
Occu: Business, Residing at Room No.105,
1st Floor, Vyankatesh Darshan,
Dombivli (West).

.....Respondents

Mr. Saurabh S. More, for the Petitioner.
Mr. Vinod Chate APP, for Respondent No.1-State.
Mr. Akash P. Shah with Mr. Rahul S. Ubale, for Respondent No.2.

CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.
DATE : 30th AUGUST, 2024.

P.C.:

1) Petitioner seeks quashing of C.R.No.528 of 2023 dated 11th September 2023 registered with L. T. Marg Police Station, Mumbai for the offenses punishable under Sections 409 and 420 of the Indian Penal Code ('I.P.C.'). Mr. Chate states that, the chargesheet is not yet filed. We accept the said statements.

2) Respondent No.1 alleges in the FIR that, he is in the business of making gold ornaments as per orders placed with him by various gold merchants. He had received an order from the Petitioner to make some ornaments and using his own gold and employing his own workers, Respondent No.2 had completed the said order. The dispute between the parties arose out of alleged breach of contract by the Petitioner pertaining to the said work order.

3) Mr. Saurabh More, learned counsel appears for the Petitioner and Mr. Akash Shah learned counsel appears for the Respondent No.2. Mr. Vinod Chate, learned APP represents the State.

4) The parties are inclined to settle the dispute amicably. Respondent No.2 has filed an Affidavit dated 7th August 2024 duly affirmed before Notary Public. In Paragraph No.6 thereof, he has given his no objection to quash the subject FIR. Respondent No. 2 states that, the dispute between the parties has been settled amicably. He further states that, the Petitioner has already deposited the agreed amount with him and he has no grievance in that regard.

5) Respondent No.2 is present before the Court and through his counsel reiterates the statements made in the Affidavit.

6) In view thereof, we are inclined to quash C.R.No. 528 of 2023 dated 11th September 2023 registered with L.T. Marg Police Station, Mumbai for the offences punishable under Sections 409 and 420 of the IPC.

7) As we expressed our opinion for quashing of C.R.No. 528 of 2023 dated 11th September 2023 registered with L.T. Marg Police Station, Mumbai, Mr. More, learned Advocate for the Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.50,000/- 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) As the Respondent No.2 is successful in bringing the Petitioner for amicable settlement by lodgment of present crime, Mr. Shah, learned Counsel for Respondent No.2 on instructions submitted that, the Respondent No.2 will also pay a cost of Rs.30,000/- to the Armed Forces Battle Casualties Welfare Fund within a period of two weeks from the date of uploading the present Order on the official website of High Court of Bombay. The statement is accepted as an undertaking to this Court.

9) In view thereof, we direct the Petitioner and the Respondent No.2 to pay a cost of Rs.50,000/- and Rs. 30,000/- respectively 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) 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

9.2) Petitioner and the Respondent No.2 to deposit the said cost of Rs.50,000/- and Rs.30,000/- respectively within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

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

11) It is made clear that, if the cost is not paid by either of the parties 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

12) List the Petition on board on 20th September 2024, under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)