

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4472 OF 2024

Sabha Shankar Tripathi & Anr.

.....Petitioners

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Sanjeev Punalekar i/b PRS Legal for the Petitioners.

Smt. Anamika Malhotra, APP for Respondent No.1-State.

Mr. Kezer Kharawala, with Mr. Pradosh Patil i/b Lex Juris for Respondent No.2.

CORAM : SARANG V. KOTWAL AND

DR. NEELA GOKHALE, JJ.

DATE : 22nd OCTOBER 2024.

P.C.:-

1) This is a Petition for quashing of FIR registered vide MECR No. 3 of 2017 with Pydhonie Police Station on 23rd May 2017 for offences punishable under Sections 409, 420, 120(B) read with 34 of the Indian Penal Code, 1860 ('IPC') and the consequent trial pending before the learned Additional Chief Metropolitan Magistrate, Mazgaon vide CC No. PW/449/2020. Investigation is over and charge-sheet is filed as can be seen from the trial pending before the Magistrate.

2) Allegations in the charge-sheet are that the Petitioner No.1 was one of the directors of M/s. Zenith Steel Tubes & Industries, which is the Petitioner No.2 herein. It had other two directors namely Ghanshyamdas Singhi and Gangaprasad Javhar. Both of them have passed away. Both the counsel state that they have passed away. There is one more accused Chandrashekhar Goenka. However, both the counsel state that he is not a director of the Petitioner No.2-company. The allegations are that between the period from May 2015 to January 2016, the Complainant-Company, i.e., M/s. Shah Steel Impex Private Limited had supplied goods to the tune of Rs.5,36,20,205/- to the Petitioner No.2-Company but the Petitioner No.2-Company did not make payment of these goods and instead, those goods were sold to the third party thereby causing loss to the tune of the said amount to the Complainant-Company. Subsequently, the matter is settled between the parties.

3) The Respondent No.2 has filed an Affidavit to that effect. It is mentioned therein that the Complainant-Company has authorised Respondent No.2-Shri Paras Shah to file the said Affidavit. It is mentioned in the Affidavit that the dispute which is the subject matter of the present Petition is settled and there is no amount payable by the

Petitioner No.2-Company to the Respondent No.2-Company. There is a reference to the Petitioner No.1 handing over possession of the land along with structure and machinery to the Respondent No.2-Company. It is specifically mentioned in paragraph 3 of the Affidavit that the Original First Informant has no objection if the said FIR No. (MECR) 3 of 2017 is quashed and set aside. From the allegations in the charge-sheet, it is quite clear that it is the dispute between two private companies and society at large is not involved. The dispute is settled between the parties and according to the Respondent No.2-Company, there is no amount, which is due and payable. Considering the situation, there is no impediment in quashing and setting aside the charge-sheet.

4) The Respondent No.2 is present in the Court and is identified by his counsel. He reiterates what is stated in the affidavit and specifically mentions that he has no objection to quash and set aside the charge-sheet. Hence, the following order:

ORDER

- (i) Petition is allowed.
- (ii) FIR registered vide MECR No. 3 of 2017 with Pydhonie Police Station on 23rd May 2017 and the consequent trial

pending before the learned Additional Chief Metropolitan Magistrate, Mazgaon vide CC No. PW/449/2020 are quashed and set aside.

5) Petition is disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)

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