



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2562 OF 2019

Awadhesh Kumar Paras Nath Pathak,
Age-58 years, Occu:Service,
R/o-Mundegaon, Igatpuri,
District-Nashik.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Cidco Waluj Poice Station,
District-Aurangabad,
- 2) Jagdeepkumar Ashokkumar Tyagi,
IT Head Cosmo Films Ltd. Company,
Age-58 years, Occu:Service,
R/o-B-14/8-9, M.I.D.C. Area,
Waluj, District-Aurangabad -431136

...RESPONDENTS

...
Mr. Sanjeev Deshpande, Senior Counsel i/b. Mr. P.P. Uttarwar
Advocate for Applicant.
Mr. A.R. Kale, A.P.P. for Respondent No.1 State.
Mr. Tapan Kishor Sant Advocate for Respondent No.2.
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**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 29th JANUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed initially for quashing the

First Information Report (for short "the FIR") vide Crime No.532 of 2019 registered with M.I.D.C. Waluj Police Station, District-Aurangabad and later on, byway of amendment for quashing the proceedings in R.C.C. No. 1863 of 2021, pending before the learned XVIth Judicial Magistrate First Class, Aurangabad, for the offence punishable under Section 408 of the Indian Penal Code, 43(b), 66 and 67 of the Information Technology Act.

2. It will not be out of place to mention here that present matter as well as another matter was heard by the then Division Bench **[CORAM: T.V. NAWAWADE AND M.G. SEWLIKAR, JJ.]**, and order was passed on 26th February 2020, framing certain questions and referring them to the Larger Bench. Thereupon the Larger Bench was constituted consisting of, **[CORAM: MANGESH S. PATIL, R.G. AVACHAT AND SHAILESH P. BRAHME, JJ.]**, and by Judgment and order dated 15th April 2024, the questions were answered. It was in respect of, when Special Enactment is there, then which will prevail. It has been observed that the definitions given in Section 415 of the Indian Penal Code will have to be understood simultaneously with the definition of "Dishonesty" contained in Section 24 of the Indian Penal Code and definition of "Fraudulently" contained in Section

25 of the Indian Penal Code, as the Sections in Information Technology Act would fall short of defining certain acts. Other questions were also answered and then the matter was again placed before the Regular Bench for further hearing.

3. Now, the applicants and respondent No.2 have come with the compromise and have placed on record the terms of settlement. Since the FIR was lodged on behalf of the company, the company had authorized the concerned person to enter into the terms of compromise. Thus, compromise terms have been got verified through the learned Registrar (Judicial) and he has submitted the report on 21st January 2025.

4. Though the parties come with the settlement, the said settlement is not binding on the Courts, but whether to quash the FIR and the proceedings on the basis of compromise, would certainly be in the discretion of the Court and therefore, we will have to take into consideration the facts of the case.

5. One Jagdeepkumar Ashokkumar Tyagi, serving in Cosmo Films Limited company, submitted in the FIR that he is I.T. Head of the company. The head office of their company is in Delhi and

there are two plants of the company, at Waluj MIDC and Shendra MIDC, in Aurangabad. He visits the units of the company as and when occasion arises. The company is in manufacture of packaging films. They supply their product within India as well as export it in different countries. The company has its own data in the computers as well as Laptops and the said data has been secured with Data Loss Prevention System. Avdheshkumar Pathak, i.e. present applicant, joined the company on 5th August 1996 as technical manager and resigned on 4th December 2018 from the post of manufacturing head. The company had approved his resignation on 31st December 2018. The applicant has then joined the services with Jindal Polyfilms Limited, Igatpuri, Nashik. When he was in the company of the informant, he was provided with the Laptop from Dell company. At the time of leaving the company, applicant told that he has personal data in one folder and may be allowed to take copy of the same. Accordingly, the data was copied in pen drive. Around December 2018, it was revealed from Delhi office that the company's data has been stolen. The informant had then asked another employee Sachin Gore, working at Aurangabad unit to check as to whether the other data from the Laptop has been copied by accused Pathak. It was then revealed that accused Pathak has

copied the data of the company and the possibility of copying it for sell or parting it with other by taking money cannot be ruled out. The said data was sensitive for the informant's company.

6. The investigation was carried out and even charge-sheet was filed. But, now, as per the settlement terms, it is stated that the accused has returned and joined the informant's company. He has undertaken to put dedicated work for the growth of the company and therefore, they want to maintain cordial relations. Certainly, the allegations would show that it was totally confidential affair between the company and the employee and it will not have impact on the society at large and therefore, there is no hurdle in allowing the parties to compromise and quashing and setting aside the FIR as well as the further proceedings. However, it can certainly be said that the entire machinery has been utilized by both the parties i.e. informant's company as well as the applicant to settle the personal scores and therefore, we impose the cost. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No. 1863 of 2021, pending before the learned XVIth Judicial Magistrate First Class, Aurangabad, for the offence punishable under Section 408 of the Indian Penal Code, Sections 43(b), 66 and 67 of the Information Technology Act arising out of the First Information Report vide Crime No.532 of 2019 registered with M.I.D.C. Waluj Police Station, District-Aurangabad, stands quashed and set aside as against applicant - Awadhesh Kumar Paras Nath Pathak.

(III) Applicant No.1 and respondent No.2, to deposit cost of Rs.25,000/-, each, with the Registry i.e. the Committee consisting of learned Registrar (Administration) of the High Court, Bench at Aurangabad and the Medical Officer of the High Court Medical Dispensary, Aurangabad, on or before 20th March, 2025.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/MAR25