IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.644 OF 2019

Madhurima Udayan Dasgupta … Petitioner

Vs.

State of Maharashtra and others … Respondents

Mr. Mahesh Vaswani a/w. Ms. Shreya Tiwari, Mr. Divij Jumani and Ms. Zoya Hazra i/b. Mr. Mayank Tripathi for Petitioner.

Ms. Sangita Phad, APP for Respondents-State.

Mr. Tariq Khan for Respondent No.2.

CORAM : MANISH PITALE &
MANJUSHA DESHPANDE, JJ.

DATE : DECEMBER 09, 2025

P.C. :

. Heard Mr. Vaswani, learned counsel appearing for the petitioner, Ms. Phad, learned AGP appearing for the respondents-State and Mr.Khan, learned counsel appearing for respondent No.2 i.e. the first informant.

2. The petitioner has filed this petition for quashing of FIR dated 01.09.2018 bearing No.320 of 2018 under Section 408 and 420 of the Indian Penal Code, 1860 (IPC), as also the consequent charge-sheet filed upon completion of investigation.

3. The first informant i.e. respondent No.2 is a General Manager of the complainant company i.e. Me *N* Moms Private Limited. The statement of the first informant shows that when a three-monthly audit of the accounts of the company was undertaken in May 2018, it came to light that certain amounts of the company had been misappropriated and that the role of the petitioner had come to the fore. In that light, the company decided to appoint a special auditor, who submitted his report

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at the end of May 2018. As per the report of the special auditor, when it came to light that certain amounts of the company were siphoned off and found their way to the accounts of the petitioner, the subject FIR was registered. Upon completion of investigation, charge-sheet was filed. Although it was claimed in the FIR with reference to certain bank accounts that they appeared to be accounts opened in fictitious names of employees, the charge-sheet records that three out of the four accounts were actually in the name of the petitioner herself and the remaining account was in the name of the mother of the petitioner. As per the charge-sheet, the investigation has brought on record sufficient material to show the involvement of the petitioner in the alleged offences.

4. Upon notice being issued in this petition, the State appeared through the learned APP and the respondent No.2 (first informant) is also represented.

5. The learned counsel for the petitioner submits that even if the entire material, upon which the investigating authority is relying, is taken into consideration and accepted as it is, ingredients of the alleged offences are not made out. The learned counsel for the petitioner has invited attention of this Court to the letter of appointment dated 02.06.2014, whereby the petitioner was appointed as a Manager - Human Resource and he particularly emphasized on the scope of work of the petitioner and also the fact that she would be reporting to the Human Resource Head of the organization. On the basis of the said letter of appointment, it was submitted that the nature of work of the petitioner was concerned with recruitment and that, she had no control over the finances of the company. It was submitted that the amounts that found their way to the aforementioned bank accounts of the petitioner and her mother were incentive amounts that were orally agreed by the company to be paid to the petitioner for her efficient work and that, there was not

an iota of material to show siphoning off of the funds as claimed by the complainant company.

6. Attention of this Court was further invited to the contents of the writ petition, particularly paragraph 1 thereof, to claim that when the petitioner indicated that she would be taking up the aspect of sexual harassment of the petitioner herself and also of certain other women employees, as a counter-blast, the subject FIR was registered. It was submitted that on 01.08.2018 i.e. an entire month prior to registration of the subject FIR, the petitioner had already submitted a complaint to Samata Nagar Police Station, Kandivali (East), Mumbai about harassment and the circumstances in which the petitioner was forced to resign. It was submitted that the aforesaid material amply demonstrates that apart from the ingredients of the alleged offences not being made out, this was a case of a counter-blast on the part of the complainant company in order to further harass the petitioner. In such circumstances, it was submitted that the subject FIR and the consequent charge-sheet deserve to be quashed.

7. The learned APP, on the other hand, referred to and relied upon the statement of the first informant that led to registration of the FIR. It was submitted that when the petitioner realized that she was in trouble in the light of the audit report, she submitted her resignation letter on 17.07.2018, which simply stated that due to some personal emergency, she was resigning. It was submitted that the conduct of the petitioner, in the present case, as is evident from the communications exchanged between the company and the petitioner, clearly shows that it was after suspicion was raised about her role in misappropriation of amounts that, she turned around to file the aforesaid police complaint on 01.08.2018. It was emphasized that even in this complaint, there was no reference to any aspect of sexual harassment and that, such allegations came to the

fore only on 18.12.2018, after the subject FIR dated 01.09.2018 was registered. It was submitted that the charge-sheet has placed on record sufficient material to proceed against the petitioner and that therefore, no indulgence can be shown to the petitioner in the present case.

8. The learned counsel appearing for respondent No.2 (first informant) supported the submissions made by the learned APP and further invited attention of this Court to the exchange of communications between the company and the petitioner. It was submitted that the one-line resignation letter was not accepted and by an e-mail dated 18.07.2018, the company made it abundantly clear that the misconduct of the petitioner had been noticed and that she was obliged to give clarification and explanation. It was submitted that in such circumstances, the petitioner cannot claim that the subject FIR is, in any form, a counter-blast to the alleged acts of harassment suffered by the petitioner as an employee of the company. It was submitted that the petition deserves to be dismissed.

9. We have considered the rival submissions in the light of the material on record. A perusal of the statement of the first informant (respondent No.2), leading to registration of the FIR indeed shows that the company became aware about the role of the petitioner in misappropriation of amounts belonging to the company pursuant to special audit that was necessitated in view of the three-monthly audit carried out in May 2018. The statement clearly gives details of the amounts (totaling to Rs.34,69,633/-) that were transferred from the company to four bank accounts. The investigation revealed that three out of the four accounts were in the name of the petitioner herself and the fourth account was in the name of her mother. The explanation sought to be given on behalf of the petitioner about some oral arrangement regarding incentives being paid in such accounts rather than in the salary

account of the petitioner, would be a matter for trial and at this stage itself, the said explanation of the petitioner cannot be accepted.

10. We further find that the letter of appointment dated 02.06.2014, upon which the petitioner has placed much reliance, specifically records under the head ‘scope of work’ that she would be responsible to execute appointments / tasks assigned to her from time to time by her supervisors. As to whether during the relevant period of time, the petitioner was indeed assigned tasks that included dealing with the finances of the company would be again a matter of trial, and therefore, bare reliance on the said appointment letter cannot take the case of the petitioner any further for quashing of the FIR and the charge-sheet. It is also relevant to note that after the report of the special auditor came to the fore and explanations were sought from the petitioner, she submitted a one-line resignation letter on 17.07.2018, claiming to resign on the ground of “personal emergency”. Immediately, on 18.07.2018, the company responded by refusing to accept her resignation and called upon her to give clarification and explanation for the misconduct committed by her as was evident from the audit report of the special auditor. It is thereafter that on 01.08.2018, the petitioner, for the first time, appears to have reached out to the police, submitting a complaint at Samata Nagar Police Station. In this complaint, it is significant to note that, there is no whisper of an allegation of sexual harassment.

11. Thereafter, the subject FIR dated 01.09.2018 was registered and it was only thereafter that on 18.12.2018, the petitioner, for the first time, submitted a complaint to the Commissioner of Police, Mumbai and others, including Wakola Police Station with regard to the alleged sexual harassment at the hands of the officers of the company.

12. The sequence of the events, in the present case, indicates that the allegations of harassment raised by the petitioner, *prima facie*, appear to

be an after-thought and it was only after the company decided to proceed against the petitioner for alleged acts of misappropriation that such complaints were initiated on the part of the petitioner.

13. On the question as to whether the ingredients of the alleged offences are made out, we are of the opinion that contents of the statement of the first informant (respondent No.2), which led to registration of the FIR, *prima facie*, make out the ingredients of the alleged offences. It is clearly stated that the petitioner being a Senior Manager (HR) with the complainant company acted in a manner that resulted in misappropriation of amounts and the special audit report revealed that specific amounts unauthorizedly and illegally found their way to the aforementioned four bank accounts. In such a situation, the petitioner cannot claim that even if the contents of the aforesaid statement, as also the material that has come on record upon completion of investigation and filing of charge-sheet, accepted as it is, do not even make out a *prima facie* case against the petitioner. We are unable to agree with the contentions raised on behalf of the petitioner, and therefore, the petition deserves to be dismissed.

14. Accordingly, the petition is dismissed.

15. Pending applications, if any, also stand disposed of.

(MANJUSHA DESHPANDE, J.) **(MANISH PITALE, J.)**

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