

Vina Khapde
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.504 OF 2024

Nikunj Desai and anr .. Petitioners
Versus
The State of Maharashtra and anr. .. Respondents

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- Mr. Kushal Mor a/w Mr. Kunal Karungo, Mr. Aakash Shah i/b. Atishay Jain for the Petitioners.
 - Mr. Mukesh Pabari for Respondent No.2.
 - Mr. S. R. Agarkar, APP for the Respondent – State.
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CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.

DATE : 4th FEBRUARY 2025

P.C.:

1. The present Petition is for quashing of the FIR registered vide C.R. No.223/2017 at Manpada Police Station, Thane dated 20/4/2017 under Sections 409 and 420 of the Indian Penal Code, 1860.

2. The learned Counsel for the Petitioner submitted that leave to amend may be granted to add the prayer for quashing of the entire chargesheet.

3. Leave to amend is granted and the amendment shall be carried out forthwith.

4. The FIR is lodged by one Vikrant Kokarale on behalf of BEW Engineering Pvt. Ltd. The gist of the FIR is that the informant - Company was in the business of manufacturing process equipments

and for that purpose they needed stainless steel as raw material. The Petitioner's Company was in the business of supplying raw stainless steel. The Petitioner's Company was supplying stainless steel to the informant since 2011.

5. The transaction which is the subject matter of the FIR, pertains to the year 2016. There are allegations that in August 2016, the informant – Company had paid Rs.1.17 Crores for purchasing raw material. However, the raw material was not supplied and the entire amount was misappropriated. On this basis, the FIR is lodged.

6. The investigation was carried out and the chargesheet is filed. The copies of the relevant statements in the chargesheet are produced and are taken on record. The statements are of the employees and the transporters of goods. All of them have stated that such raw material was never supplied by the Petitioner's Company.

7. Be that as it may, now the parties have settled their dispute and they have arrived at settlement terms. Mr. Mohan Prakash Lade, the Managing Director of the informant Company is present in the Court. He has filed the affidavit of consent for quashing of the proceedings. He is identified by his learned Counsel. The Board Resolution authorizing him is annexed to the said affidavit at Exhibit 'A'. Mr. Mohan Lade specifically told the Court that the matter is settled between the parties and they have no objection if the proceedings are

quashed. There is reference to C.R. No.223/2017 registered at Manpada Police station and R.C.C. No.242/2024 pending before the 3rd Judicial Magistrate Court, Kalyan. It is specifically stated in the affidavit that the dispute is settled and the informant - Company has no objection if the proceedings are quashed and set aside. Mr. Mohan Lade reiterated the statements made in the affidavit when the Court specifically asked him about the same. The Consent Terms entered into between the parties are annexed to the said affidavit at Exhibit 'B'.

8. Considering that the dispute between the parties is purely personal and commercial in nature, and neither the Government nor the society are involved, and since the parties have settled the matter, we see no impediment in allowing the present Petition subject to payment of cost by the Petitioners. Hence the following order :

ORDER

- (i) The FIR registered vide C.R. No.223/2017 at Manpada Police Station, Thane, resulting in RCC No.242 of 2024 on the file of 3rd Judicial Magistrate Court, Kalyan, is quashed and set aside subject to payment of cost of Rs.50,000/- to the Armed Forces Battle Casualties Welfare Fund; by the Petitioners. The details of which are as follows :

Bank name	: Canara Bank
Branch	: South Block, Defence Head Quarters, New Delhi-110011
Account Name	: Armed Forces Battle Casualties Welfare Fund.
Account No.	: 90552010165915
IFSC Code	: CNRB0019055
Type of Account	: Saving

- (ii) The cost to be paid within a period of eight weeks from today and the receipt of the same shall be submitted to the Registry of this Court. If such proof is shown, then there shall be no further reference to the Court. But if the cost is not paid and the receipt is not shown, then the Registry shall post this matter for further consideration and in that situation, this order is liable to be recalled.
- (iii) Writ Petition is allowed and disposed of in the aforesaid terms.

[S.M. MODAK, J.]

[SARANG V. KOTWAL, J.]