Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 823 OF 2025

Jigar Praful Ghoghari ...Petitioner
Versus
State of Maharashtra and anr. ...Respondents

Mr. Manish Bohra, for the Petitioner.
Mr. K. C. Shinde, APP for the State – Respondent No.1.
Mr. Aditya Joshi, i/b Anubha Rastogi, for Respondent No.2.

CORAM: N. J. JAMADAR, J.
DATED: 27th NOVEMBER, 2025

Oral Order:-

1. Heard the learned Counsel for the parties.

2. The challenge in this petition is to an order dated 3rd January, 2025, whereby the learned Special Judge permitted the compounding of the offence upon payment of Rs.1,00,000/- purportedly towards legal expenses.

3. The petitioner has been prosecuted for an offence punishable under Section 24(2) of The Securities and Exchange Board of India Act, 1992 ("SEBI Act, 1992"), for having committed default in payment of the penalty imposed on the petitioner under an adjudication order dated 26th September, 2014.

4. In the complaint, it was averred that on account of default in payment of the penalty, a notice was addressed to the petitioner on 20th May, 2021, calling upon the petitioner to pay the penalty of Rs.5,00,000/- along with interest at the rate of 12% p.a. within a period of 15 days of the receipt of the said notice. As the petitioner committed default in payment of the penalty along with interest within the said period of 15 days, the complaint came to be lodged on 29th June, 2021.

5. The petitioner filed an application for compounding of the offence asserting *inter alia* that the petitioner had paid the penalty in the year 2017 itself. And, yet, the prosecution came to be lodged.

6. In reply, respondent No.2 contended that keeping in consonance with the prescribed procedure, and in view of the facts and circumstances of the case, and the material available on record, respondent No.2 was of the view that the case ought to be compounded upon payment of the following amounts:

Penalty amount (imposed vide SEBI Order bearing No.EAD-2/AO/DSR/RG/222-248/2014 dated September 26, 2014)	Rs.5,00,000.00/-
Simple interest at the rate of 12% per annum till September 26, 2017	Rs.1,80,328/-
Recovery Cost	Rs.1000/-
Legal Expenses	**Rs.1,00,000/-**
Amount recovered	Rs.6,81,328/-
Total Amount to be paid	Rs.1,00,000/-

7. By the impugned order, the learned Special Judge was persuaded to allow the application for compounding subject to payment of a sum of Rs.1,00,000/- towards legal expenses.

8. The learned Counsel for the petitioner submitted that there was no basis for calling upon the petitioner to pay the legal expenses when the amount of penalty was deposited by the petitioner in the year 2017, itself. The very initiation of the prosecution was wholly unwarranted.

9. The submission appears well merited. It could not be controverted that the petitioner had deposited the amount of penalty in the month of September, 2017. In view thereof, there was no occasion for respondent No.2 to again give a notice on 20th May, 2021 calling upon the petitioner to pay the penalty and the interest thereon, with the assertion that there was default in the payment of amount of penalty and, thereafter, initiate the prosecution.

10. The learned Special Judge committed an error in not adverting to the fundamental fact that the very initiation of the prosecution appeared to be wholly unwarranted. In such a situation, when the amount of penalty along with interest was already paid long back, an order of imposing the condition of payment of a sum of Rs.1,00,000/- appeared clearly arbitrary and unreasonable. Therefore, the petition deserves to be allowed.

11. Hence, the following order:

: O R D E R :

(i) The petition stands allowed.

(ii) The impugned order stands quashed and set aside to the extent it directs the petitioner to pay a sum of Rs1,00,000/- by way of legal expenses.

[N. J. JAMADAR, J.]