

Prashant Digambar Barhate vs State Of Maharashtra And Anr on 22 February, 2023

Bench: Revati Mohite Dere, Prithviraj K. Chavan

910-WP-ST-537-2023.doc

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION [STAMP] NO.537 OF 2023

Prashant Digambar Barhate]	Petitioner
vs.		
1. The State of Maharashtra]	
2. D.A. Stuart India Pvt. Ltd.]	Respondents
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Mr. Karma Vivan, for Petitioner.

Mr. Y.M. Nakhwa, A.P. P, for Respondent No.1-State. Ms. Madhavi Doshi i/b Phoenix Legal, for Respondent No.2. Mr. Santosh Koli, A.P.I, Chaturshringi Police Station.

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CORAM : REVATI MOHITE DERE & PRITHVIRAJ K. CHAVAN, J.J. DATE : 22nd February, 2023.

P.C.

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1-State and Ms. Doshi, learned Counsel waives notice on behalf of the respondent No.2 (original complainant).

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3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the petitioner seeks quashing of the First Information Report (for short "F.I.R") bearing C.R. No.41 of 2021 registered with the Chaturshringi Police Station, Pune, for the alleged offences punishable under sections 120-B, 379, 408, 417, 418 and 420 of the Indian Penal Code (for short "I.P.C") and 43(b) and 66 of the Information

Technology Act, 2022 and consequently, the proceeding pending before the learned Judicial Magistrate First-Class, 9th Court, Shivajinagar, Pune being R.C.C No.1152 of 2022. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Although section 120-B has been applied, it transpires that the Police have not found involvement of any other person, apart from the petitioner, in the aforesaid crime.

5. Perused the papers. According to the respondent No.2 (original complainant), the petitioner was an employee of the respondent No.2, initially, having been appointed as a "Development Chemist" on 21st September, 2012. At the time of his 2 of 10 910-WP-ST-537-2023.doc resignation, the petitioner was working as a "Lab Chemist". It is the respondent No.2's case that the petitioner had downloaded certain documents and committed theft of some confidential information of the company i.e the respondent No.2. Pursuant thereto, the respondent No.2 lodged the aforesaid F.I.R, as against the petitioner, alleging the aforesaid offences. Apart from the aforesaid F.I.R, the respondent No.2 had also filed civil proceedings against the petitioner i.e, Special Civil Suit No.1227 of 2020 before the 14th Joint Civil Judge, Senior Division, Pune, Appeal from Order No.155 of 2021 before this Court and Interim Application No.1619 of 2021 in the Appeal From Order.

6. In the interregnum, during the pendency of the aforesaid proceedings, the parties amicably settled their dispute and filed consent terms in the Appeal from Order filed in this Court, by the respondent No.2. The said consent terms entered into between the parties dated 27th February, 2022 are duly signed by the petitioner, the authorized signatory of the respondent No.2 and their respective Advocates. The said consent terms are at page 36 of the petition. The said Consent Terms read thus;

3 of 10 910-WP-ST-537-2023.doc CONSENT TERMS "1. The parties hereto have arrived at an amicable settlement to settle all disputes forming the subject matter of Special Suit No. 1227 of 2020 before the 14th Jt. Civil Judge, Senior Division, Pune (Ld. Civil Judge),Appeal from Order No. 155 of 2021 before this Hon'ble Court (Appeal) and the Interim Application No. 1619 of 2021 before this Hon'ble Court, against the Respondent and are desirous of entering into the below mentioned Consent Terms in the present Appeal from Order No. 155 of 2021 and the Interim Application No. 1619 of 2021, pending before this Hon'ble Court, to fully and finally put an end to all such disputes.

1.1. The Respondent agrees, confirms and undertakes, at present or at any time in the future, not to: (a) use or disseminate, disclose or in any manner utilize the Appellant's Intellectual Property Rights (IPR) or Confidential Information (as defined in the Non-Disclosure Agreement dated October 1, 2019, as amended and supplemented from time to time (Non- Disclosure Agreement)), either by himself or through any other persons, his servants agents; or (b) share, transfer or utilize Appellant's IPR or Confidential Information and any other property belonging to the Appellant with any person whatsoever or make it available to any person whatsoever including any competitor. 1.2 The Respondent agrees, confirms and undertakes that the Respondent has not exfiltrated the Appellant's IPR or Confidential 4 of 10 910-WP-ST-537-2023.doc Information onto other devices other than those he has admitted and disclosed in proceedings before the Ld. Civil Judge, Pune and this Hon'ble Court, and that the Respondent has returned all of the Confidential Information and

Appellant's IPR.

1.3 The Respondent agrees, confirms and undertakes that he has not transferred the Appellant's IPR or Confidential Information to any person including his future employer and that he will continue to be bound by the terms of his Employment Contract (i.e., collectively, the Appointment Letter dated September 21, 2012, as amended and supplemented from time to time, Non-Disclosure Agreement and Non- Compete Agreement dated October 1, 2019, as amended and supplemented from time to time) that survive post termination of his employment, including in particular the provisions on Confidential Information and IPR.

1.4. The Respondent agrees, confirms and undertakes that the Respondent has returned to the Appellant all the devices onto which the Appellant's IPR or Confidential Information was exfiltrated by the Respondent or by any other person through him or his agents and servants and that the Respondent or any other person through the Respondent or his agents and servants does not retain or possess any devices with such IPR or Confidential Information or such IPR or Confidential Information in any form or medium.

5 of 10 910-WP-ST-537-2023.doc 1.5 The Respondent agrees, confirms and undertakes that the Appellant has paid all pending dues (total of INR 17,54,603) to the Respondent and the Respondent has no further claims against the Appellant.

1.6 The Appellant agrees, confirms and undertakes that pursuant to the execution of these Consent Terms, the Appellant shall withdraw the Appeal from Order No. 155 of 2021 and Interim Application No. 1619 of 2021 filed before this Hon'ble Court, in terms of these Consent Terms. The Respondent agrees, confirms and undertakes that pursuant to the execution of these Consent Terms, the Respondent shall withdraw the Interim Application No. 1481 of 2022 filed before this Hon'ble Court, in terms of these Consent Terms. Upon the occurrence of the aforesaid, the Appellant agrees, confirms and undertakes to place these Consent Terms before the Ld. Civil Judge, Pune and subsequently withdraw the Special Suit No. 1227 of 2020 before the Ld. Civil Judge, Pune, in term of these Consent Terms.

1.7 In the event, the Respondent fails to adhere to these Consent Terms the Appellant will be at liberty to take legal action against the Respondent for breach of these Consent Terms.

2. Each Party bears its own cost including that of the present Consent Terms.

of 2021 and Interim Application No. 1619 of 6 of 10 910-WP-ST-537-2023.doc 2021 be disposed of in terms of these Consent Terms".

7. It is evident from the said consent terms, as reproduced hereinabove, that the petitioner has not exfiltrated the respondent No.2's confidential information on any other device/devices, other than those, he has admitted and disclosed in the proceedings before the learned Civil Judge, Pune and that the petitioner has returned all the confidential information and respondent No.2' I.P.R, to the respondent No.2.

8. In view of the consent terms, learned Counsel for the respondent No.2 has tendered an affidavit of the authorized signatory of the respondent No.2 -Vijay Barkade, dated 21st February, 2023, duly notarized before the Notary. To the said affidavit, is annexed a copy of the Board Resolution passed by the Directors of the Respondent No.2-company, authorizing Mr. Vijay Barkade to file an affidavit in this Court, in connection with the aforesaid proceeding. In the said affidavit, Vijay Barkade - authorized signatory of the respondent No.2 has stated that, in view of the consent terms filed by the parties, he has no objection to the quashing and setting aside of the F.I.R/proceeding, initiated at the 7 of 10 910-WP-ST-537-2023.doc behest of the respondent No.2.

9. Respondent No.2 is present in person. On being questioned, he reiterates what is stated by him in the affidavit. Learned Counsel for the respondent No.2 has identified the authorized signatory of the respondent No.2- Vijay Barkade. Learned Counsel has also tendered a photo copy of Vijay Barkade's Aadhar Card, duly attested by him. The same is taken on record and the original Aadhar Card is verified by the learned A.P.P.

10. Considering the nature of dispute, the amicable settlement between the parties, the consent terms executed between them, the affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of Gian Singh vs. State of Punjab & Anr.1 and Narinder Singh & Ors. vs. State of Punjab & Anr.2, there is no impediment in allowing the petition.

11. The petition is accordingly allowed and the FIR bearing C.R. No.41 of 2021 registered with the Chaturshringi Police Station, Pune and consequently, the proceeding pending before the Judicial 1 (2012) 10 SCC 303 2 (2014) 6 SCC 466 8 of 10 910-WP-ST-537-2023.doc Magistrate First Class, Court 9, Pune being R.C.C. No.1152 of 2022, are quashed and set aside, subject to the petitioner depositing costs of Rs.1,00,000/- as stated hereinunder; out of Rs.1,00,000/-, the petitioner shall deposit Rs.25,000/- with the "Pasaydan Balvikas Foundation", details of which are as under;

Bank Name	Central Bank of India
Account Number	3775403155
IFSC CODE	CBIN0285070

Rs.25,000/- with the "Association of Parents of Mentally Retarded Children", details of which are as under:

Bank Name	State Bank of India
Account Number	00000010884930648
IFSC	SBIN0009056

Rs.25,000/- with the "Anand Parivaar Charitable Trust, Satara", details of which are as under:

Bank Name	Central Bank of India
Account Number	1919815017
IFSC CODE	CBIN0281516

and Rs.25,000/- with the "Sanvedana Foundation Charitable Trust, Sangli", details of which are as under:

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Bank Name	The Karad Urban Co-op. Bank Limited, Karad
Account Number	1033016187721
IFSC CODE	KUCB0488033

The said costs to be deposited within four weeks from today.

12. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

13. Matter be listed for recording compliance regarding deposit of costs, on 29th March, 2023.

14. All concerned to act on the authenticated copy of this order. [PRITHVIRAJ K. CHAVAN, J.]
[REVATI MOHITE DERE, J.] 10 of 10