

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION No. 3636 OF 2016

Viral Jitendra Motani & Anr. ... Petitioners  
Vs.  
State of Maharashtra & Anr. ... Respondents

\*\*\*

Mr. A. Ponda a/w Nilesh Tribhuvann, for the Petitioners.  
Mrs. S. V. Sonawane, APP for Respondent No. 1-State.

\*\*\*

CORAM : V. M. KANADE, &  
Ms. NUTAN D. SARDESSAI, JJ.

DATE : DECEMBER 5, 2016

PC.

1. Heard the learned counsel appearing on behalf of the Petitioners and the learned APP appearing for Respondent No. 1 – State. The Petitioners have filed this petition for quashing of the criminal complaint dated 9<sup>th</sup> July, 2016 filed by Respondent No. 2, which was registered vide C.R. No. 119/2016 with Dongri Police Station. The Petitioners are Ex-Directors of a Company known as “Maurya Intermediaries Pvt. Ltd. It is submitted that it was agreed by

the Company that Petitioners will be receiving Rs. one lakh per month towards remuneration, which was increased to Rs. 1,50,000/-. It is submitted that the Company has paid Rs. 25,000/- per month by cash. It is submitted that in the complaint, it is alleged that this amount was paid for the purpose of payment of credit card dues, etc. and that this amount has been misutilised, and therefore, offence under Sections 420, 406 of IPC has been committed by the Petitioners. It is also submitted that this amount was legally due to the Petitioners. This is evident from some of the unimpeachable documents, which are annexed to the petition. Secondly, it is submitted that this complaint is a counter blow to the complaint filed against the current Directors, the complainant's brother and the relatives.

2. We have perused the resolution passed by the Company in which it is mentioned that the Petitioners are entitled to receive Rs. one lakh per month, and thereafter, it was increased to Rs. 1,50,000/-, which is reflected in the audited balance-sheet of the Company, which is part of the ROC record.

2. Prima-facie, a case, therefore, is made out for grant of ad-interim relief. Issue notice before admission R/o. 10<sup>th</sup> January, 2017.

Respondent No. 1 – State to file reply. The learned APP waives service of notice on behalf of Respondent No. 1. In the meantime, no charge-sheet shall be filed against the Petitioners.

Sd/-

[Ms. NUTAN D. SARDESSAI, J.]

Sd/-

[V. M. KANADE, J.]

Vinayak Halemath