

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3636 OF 2016

Viral Jitendra Motani and Anr. Petitioners
Vs.
The State of Maharashtra and Anr. Respondents

**WITH
CRIMINAL WRIT PETITION NO.2555 OF 2017**

Rahul Hemchandra Visaria Petitioner
Vs.
The State of Maharashtra and Ors. Respondents

Dr. Sujay Kantawala a/w Mr. Nilesh Tribhuvan, Mr. Burzin Bharucha, Mr. Sanjay Rego and Ms. Jhanavi Shah for the Petitioners i/b White and Brief Advocates and Solicitors in Writ Petition No.3636/2016.

Ms. Pragya i/b Vikas Kapile for Respondent No.2 in both the Petitions.

Mr. J. P. Yagnik, APP for Respondent-State.

Mr. Nilesh Tribhuvan a/w Burzin Bharucha, Mr. Sanjay Rego and Ms. Jhanavi Shah i/b White & Brief Associates for the petitioner in Writ Petition No.2555/2017.

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : 5th JUNE 2023

P. C.

1. The petitioners who are directors of a Company known as "Maurya Intermediaries Pvt. Ltd." are seeking quashing of FIR No.199/2016 dated 9/7/2016 registered under section 406, 420 r/w. 34 of I.P.C.

2. The alleged incident has occurred from 9/6/2014 to 31/3/2016, wherein the petitioners in the capacity of Directors of the said firm has incurred unaccounted expenses of Rs.64,70,090/-.

3. The fact remains that the complaint is based on the authorization given in favour of complainant by one Gunjan Hemani, who is an NRI.

4. We are informed that the proceedings being Company Petition No.41/2016 in relation to mismanagement of company funds is already *subjudice* before NCLT. By aforesaid Company Petition, the issue of mismanagement is being looked into by NCLT in the said proceedings. The respondent-complainant is also a party to the aforesaid petition

5. In view thereof, since the issue is already *subjudice* before the competent Tribunal, we deem it fit to issue Rule in the matter. Respective parties waive service. Liberty to mention, if the decision of NCLT is delivered in Company Petition No.41/2016. Ad-interim order, if any, to continue till then.

6. At the request of Mr. Nilesh Tribhuvan, learned counsel for the Petitioner, Writ Petition No. 2555 / 2017 is de-tagged.

SHARMILA U. DESHMUKH, J.

NITIN W. SAMBRE, J.