(2015) 05 BOM CK 0006

In the Bombay High Court

Case No : Criminal Writ Petition No. 220 of 2010

Alok Ranjan APPELLANT

Vs

The State of Maharashtra and Others RESPONDENT

Date of Decision : 05-05-2015

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 34, 409, 411, 420

Citation : (2015) ALLMR(Cri) 3143

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : Vishwajit Singh, Mohan Khatavkar and Pankaj Singh, for the Appellant

Judgement

M.L. Tahaliyani, J.—The petitioner Alok Ranjan along with eight others is facing trial before the Sessions Judge for offences punishable under sections 120B, 409, 411, 467, 420 and 471 of Indian Penal Code. This is a petition under section 482 of the Code of Criminal Procedure and Article 227 of the Constitution of India for quashing the criminal proceedings pending against the petitioner.

2. Accused No. 1 Guruswarup Shrivastava is the proprietor of M/s. Swarup Group of Industries (hereinafter referred to "Swarup Group"), accused No. 2 Homi Rajvansh was working as Additional Managing Director of National Agricultural Cooperative Marketing Federation of India Limited (hereinafter referred to as "NAFED") at the relevant time. Accused No. 3 Meher Shrivastava appears to be connected to Swarup Group. Accused No. 4 is the present petitioner and was working as Managing Director of NAFED. Accused No. 5 was working as Financial Advisor of NAFED. Accused No. 6 Nizar Mistry was the proprietor of M/s. Sonu International Trading Company, accused No. 7 was the financial controller of Swarup Group, accused No. 8 was also an employee of Swarup Group and accused No. 9 is wife of accused No. 1 Guruswarup. It is alleged that all the accused belonging to Swarup Group and NAFED entered into a conspiracy to

create forged documents to get financial assistance from NAFED, to use the forged documents as genuine documents, to commit the criminal breach of trust in respect of the property of NAFED, and to retain the property of NAFED dishonestly knowing that it was stolen property and further conspired to commit forgery in order to commit offence of cheating.

3. At the outset it may be mentioned here that NAFED was registered under Multi-state Cooperative Societies Act. It was set up with an object to promote cooperative marketing of agricultural produce to benefit the farmers. The agricultural farmers are the main members of the NAFED. It is the case of the prosecution that the NAFED was not supposed to enter into tie-up business and to provide financial assistance for promoting any non agricultural produce.

4. The allegations against the petitioner and the other accused begins with para 3 of the chargesheet. It is alleged that in pursuance of the conspiracy of accused No. 1 on behalf of Swarup Group and accused No. 2 on behalf of NAFED signed the memorandum of understanding to provide financial assistance to Swarup Group for export of iron ore to China. M/s. Swarup Group received Rs. 235.59 Crores from NAFED for the said purpose. It is alleged that only small part of the said amount was utilized for export of iron ore and major portion of the amount was diverted for other purposes than the purpose for which the amount was released to Swarup Group.

5. It is thus alleged that the amount was released in favour of Swarup Group headed by accused No. 1 pursuant to the conspiracy of all the accused. The investigation has revealed that the accused No. 1 Guruswarup had prepared false auditors report showing rosy picture of his firm. He got prepared the false stock statement and audit report through accused Nos. 7 and 8. He also submitted false and forged receipt for Rs. 2,32,61,500/-showing payment to M/s. Sonu International Trading Company for transportation of the material and thus prepared false documents dishonestly. Such forged documents were used by Swarup Group for obtaining finance of about Rs. 235 Crores from NAFED. It is submitted in the chargesheet by the CBI that the investigation had revealed that as per MOU, Swarup Group was to export iron ore in the name of NAFED and submit bills to NAFED. Swarup Group was also under an obligation to provide collateral security to NAFED and transfer Letter of Credits in the name of NAFED. It is alleged that neither the bills nor the collateral securities were submitted by accused No. 1 as agreed. Only 5 export bills amounting to Rs. 51.75 Crores (against the total financial assistance of Rs. 235 Crores) were submitted to NAFED. Accused No. 1 fraudulently did export business in the name of his proprietary concern and export invoices were negotiated through the account of M/s. Swarup Group with Standard Chartered Bank, Mumbai, Lord Krishna Bank, Noida and Canara Bank, Andheri. The remittance were received in the account of M/s. Swarup Group and also in the account of accused No. 3 Meher Gurswarup Srivastava son of accused No. 1 Guruswarup. It is the case of CBI that the amount of Rs. 105.68 Crores approximately has been received as export

proceeds by M/s. Swarup Group against the export of iron ore to Railway Unit Logistic China. The payments made to the NAFED was about 86.06 Crores. As already stated the rest of the amount was diverted for other purposes.

6. Paragraph 14 of the chargesheet briefly states the allegations against all the accused. The said paragraph can be reproduced as under :

"14. The aforesaid facts discloses :

(a) That Sh. Guru Swarup Srivastava (A-1), Prop. Of M/s. Swarup Group of Industries, Sh. Homi Rajvansh (A-2), the then Addl. Managing Director of NAFED, Sh. Meher Srivastava (A-3) S/o. Sh Guru Swarup Srivastava (A-1), Sh. Alok Ranjan (A-4), the then Managing Director of NAFED, Sh Nizar N. Mistry (A-6), Prop. Of M/s. Sonu International Trading Co. Sh. Ganeshan Lakshmanan (A-7), the then Financial Controller of M/s. Swarup Group of Industries, Sh. Sunil S. Petkulkar (A-8), the then Office Boy of M/s. Swarup Group of Industries and Mrs. Deepshikha Srivastava (A-9), W/o. Sh. Guru Swarup Srivastava (A-1) in the year 2004-05 at New Delhi, Mumbai and other places agreed among themselves to do an illegal act, namely dishonestly cheating NAFED and causing loss to NAFED By forging and preparing false documents, etc. and besides he above said agreement to commit the offence of Criminal Breach of Trust, cheating, forgery for the purpose of cheating, using forged document as genuine, etc. punishable with imprisonment for life or rigorous imprisonment for a term for of two year or upwards for a Criminal conspiracy to commit an offence punishable u/s. 120B IPC r/w section 409, 411, 420, 468, 471 IPC.

(b) That in the year 2004-05 at New Delhi, Mumbai and other places Sh. Guru Swarup Srivastava (A-1) cheated NAFGED by dishonestly inducing NAFED by submitting false letters for disbursement, false and forged stock statement, false and forged receipt, delivery challan, Auditors Report etc to disburse the amount belonging to NAFED to M/s. Swarup Group of Industries a proprietorship concern of Sh Guru Swarup Srivastava (A-1) that Sh. Guru Swarup Srivastava (A-1) has thereby committed an offence punishable under section 420 of IPC.

(c) That in the year 2004-05, Sh. Homi Rajvansh (A-2), the then Addl. Managing Director of NAFED, Sh. Alok Ranjan (A-4), the then Managing Director of NAFED, Sh. Subhash Chandra Shah (A-5), the then Financial Advisor of NAFED were interested with the funds of NAFED In their capacity as Addl. Managing Director (Tie-up and Finance). Managing Director and Chief Executive Officer and Financial Advisor (Finance and Accounts) of NAFED, an organization buying and selling mainly agricultural commodities (a merchant organization). They committed criminal breach of trust in respect of the said property so entrusted and thereby committed any offence punishable U/s. 409 of IPC.

(d) That, in the year 2004-05 at Mumbai Sh. Meher Srivastava (A-3) and Mrs. Deepshikha Srivastava (A-9) dishonestly received and retained stolen property i.e. the amount Criminally misappropriated by Sh Guru Swarup Srivastava (A-1) in conspiracy with Sh. Homi Rajvansh (A-2) and Sh. Alok Ranjan (A-4), belonging to NAFED which were disbursed for export of Iron ore, having reason to believe that the said property was criminally misappropriated by Sh Guru Swarup Srivastava (A-1). Both Sh. Meher Srivastava (A-3) and Mrs. Deepshikha Srivastava (A-9) have retained the property in the form of flats purchased out of the misappropriated amount and thereby committed an offence punishable U/s. 411 of IPC.

(e) That, in the year 2004-05 at New Delhi and Mumbai Sh. Ganeshan Lakshmanan (A-7) prepared false stock statements. Sh. Nizar N. Mistry (A-6) prepared false invoices and delivery challans showing delivery of materials which were duly acknowledged by Sh. Guru Swarup Srivastava (A-1) for having falsely received the goods to be a valuable security to receive financial assistance from NAFED and also to dishonestly receive payment against the LC. That in the year 2004-05 at New Delhi or Mumbai Sh. Sunil S. Petkular (A-8) forged stock statements, Auditors Report, Profit and Loss a/c. Statement of M/s. Swarup Group of Industries purporting to be a valuable security to receive financial assistance/disbursement of funds from NAFED. That Sh. Nizar N. Mistry (A-6) Sh. Ganeshan Lakshmanan (A-7) and Sh. Sunil S. Petkulkar (A-8) have thereby committed an offence punishable U/s. 467 of IPC.

(f) That, in the year 2004-05 at New Delhi and Mumbai Shri. Ganeshan Lakshmanan (A-7) prepared false stock statements, Sh. Nizar N. Mistry (A-6) prepared false invoices and delivery challan showing delivery of materials which were duly acknowledged by Sh. Guru Swarup Srivastava (A-1) for having falsely received the goods to be a valuable security to receive financial assistance from NAFED and also to dishonestly receive payment against the LC. That in the year 2004-05 at New Delhi or Mumbai Sh. Sunil S. Petkulkar (A-8) forged stock statements, Auditors Report, Profit and Loss a/c statement of M/s. Swarup Group of Industries. That Sh. Nizar N. Mistry (A-6), Sh. Ganeshan Lakshmanan (A-7) and Sh. Sunil S. Petkulkar (A-8) have forged the documents intending that it shall be used for the purpose of cheating NAFED and that they have thereby committed an offence punishable U/s. 468 of IPC.

(g) That, in the year 2004-05 at New Delhi and Mumbai Sh. Guru Swarup Srivastava (A-1) and Sh. Ganeshan Lakshmanan (A-7) fraudulently and dishonestly used as genuine a certain documents namely stock statements, Auditors Report, Profit and Loss A/c. Statement, Receipts, invoices and Delivery Challans etc. which a new at the time when used it to be a forged document. That, both Sh. Guru Swarup Srivastava (A-1) and Sh. Ganeshan Lakshmanan (A-7) thereby committed an offence punishable u/s. 471 of IPC."

7. At the outset, it may be mentioned here that it is not denied by the petitioner that he in his capacity as Managing Director was over all in-charge of functioning of NAFED. However, the fact remains that there was business committee which held superior powers as compared to the petitioner. The business committee comprised of Chairman, two Vice Chairmen and the Managing Director. The NAFED had entered into non agricultural business before the transactions in

question in the present petition. One such transaction had already taken place which did not pertain to agricultural produce. Though NAFED was set up with an object to promote cooperative marketing of the agricultural produce to benefit farmers, it appears that NAFED wanted to diversify the business activities due to shrinking income in marketing of agricultural commodities. The NAFED had decided to undertake tie up business under the public private partnership scheme for non-agricultural produce before the petitioner joined NAFED. The fact also remains that amended rule to allow NAFED to enter into Public Private Partnership Scheme for non agricultural produce was approved by the Central Registrar later than two transactions in question. The transactions in question involved tie up business of Rs. 235.59 Crores with Swarup Group. The fact also remains that only Rs. 86.6 Crores were recovered and Rs. 149.53 Crores could not be recovered. The counsel appearing on behalf of NAFED has submitted that the properties of Swarup Group to the extent of outstanding amount have already been attached. As such the amount has been secured.

8. It is alleged that the accused No. 2, who is joined as respondent No. 4, and the petitioner had dishonest intention while entering into tie up business with Swarup Group in non-agricultural commodities.

9. Initially the application of the applicant was decided by this court (Coram: A.M. Thipsay, J.) and his application was allowed. The proceedings pending against him filed by the CBI pending in the court of Magistrate vide C.C. No. 1036/CPW/2008 were directed to be quashed. However, the added respondent i.e. respondent No. 4 Homi Rajvansh (Accused No. 2) moved the Hon''ble Supreme Court taking exception to the observations made by this court in the earlier order. The Hon''ble Supreme Court has set aside the order of this court and has directed that respondent No. 4 be impleaded as party respondent to the proceedings and petition of petitioner be heard afresh giving opportunity of being heard to respondent No. 4. Learned counsel Mr. Kohli has appeared on behalf of respondent No. 4. Respondent No. 1 is the State of Maharashtra. Respondent No. 2 is CBI and respondent No. 3 is original complainant Mr. M.V. Hardas who was working as Manager (Vigilance and Personnel) of NAFED.

10. Learned counsel Mr. Kohli has submitted that the powers under section 482 of the Code of Criminal Procedure are to be exercised sparingly and this is not the case where this court shall allow the petitioner to invoke those powers under section 482 of Code of Criminal Procedure. Various judgments have been cited on this point by learned counsel Mr. Kohli as well as learned counsel Mr. Vishwajit Singh. The law is very well settled that the powers under section 482 of Cr.P.C. are to be exercised very sparingly and in the rarest of rare case. This means that when the court comes to the conclusion that the chargesheet prima facie does not disclose any offence, the continuance of criminal proceedings against the accused will amount to abuse of process of court. The court is under obligation to exercise powers under section 482 of Cr.P.C. in such cases. The facts in this case particularly the allegations against the petitioner and submissions made on

behalf of respondent No. 4 will have to be examined keeping in view the judgments of Hon''ble Supreme Court particularly in the cases of State of Haryana and others Vs. Ch. Bhajan Lal and others, AIR 1992 SC 604 : (1992) CriLJ 527 : (1990) 4 JT 650 : (1990) 2 SCALE 1066 : (1992) 1 SCC 335 Supp : (1990) 3 SCR 259 Supp and Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, AIR 1998 SC 128 : (1998) CriLJ 1 : (1997) 8 JT 705 : (1997) 6 SCALE 610 : (1998) 5 SCC 749 : (1997) 5 SCR 13 Supp .

11. Coming back to the facts of the case, it is not disputed that there were two MOUs with Swarup Group and both the MOUs were in respect of the tie up business of non agricultural produce i.e. iron ore. It is also an admitted position that the first MOU was approved by the petitioner and for the second MOU respondent No. 4 did not take approval of the petitioner. Respondent No. 4 was working as Additional Managing Director of NAFED. Both the MOUs were signed by respondent No. 4. There was no approval of petitioner to the second MOU which involved bigger sum. Petitioner therefore claims that the second MOU was not entered into with his approval and that he has nothing to do with the alleged conspiracy between respondent No. 4 and others. An amount of Rs. 11,65,41,500/- was advanced under the first M.O.U. and the rest of the amount was disbursed under the second MOU. Total amount advanced to Swarup Group was around Rs. 235 Crores.

12. This court while dealing with the petition of the petitioner earlier, had come to the conclusion that the allegations made in the chargesheet did not reveal that the petitioner had committed any offence. This court has also given a finding that the petitioner had failed to keep proper check over what his subordinates were doing. This court has also given a finding that there was no material to show that the petitioner had requisite mens rea to fasten him with the criminal liability.

13. As stated earlier respondent No. 4 felt offended due to certain observations made by this court and therefore, moved the Hon''ble Supreme Court. The present petition has been heard afresh as per the judgment of the Hon''ble Supreme Court.

14. It is not the case of the respondent No. 4 that the petitioner had approved second MOU. It is also not his case that petitioner was party to the said MOU. What is highlighted before me during the course of arguments by the learned counsel Mr. Kohli was that the petitioner was not kept in dark and that he was aware of the second MOU which was much larger in amount. Petitioner was always kept aware of the developments and periodical reports were being submitted to him.

15. After having heard the learned counsel Mr. Kohli for respondent No. 4 and learned counsel for the petitioner Mr. Vishwajeet Singh and after having gone through the statements of witnesses particularly statement of witness S.K. Maggu, I have come the conclusion that though the petitioner was not party to the second MOU and though his approval was not taken, he was not unaware of

the second MOU. The documents brought to my notice which are part of the chargesheet, do indicate that the petitioner''s office was not kept in dark in respect of the second MOU. The petitioner''s office was also periodically being informed of the developments and disbursal of the amounts to Swarup Group.

16. The question which arises for determination in the present petition is whether the chargesheet as a whole against the petitioner makes out a case for framing charge against the petitioner for the alleged offence of criminal conspiracy and criminal breach of trust. Para No. 8 of the chargesheet can be reproduced as under :

"8. The investigation has revealed that Sh. Alok Ranjan (A-4) was Managing Director of NAFED during 2004-05 and had approved the Tie-up business for export of iron ore, a Non Agricultural Commodities, with M/s. Swarup Group of Industries on 31.03.2004. As per the existing Bye-laws of NAFED, it was not having object to deal in Non Agricultural Commodities before 12.12.2004, the date on which the amendments in Byelaws were registered by the Central Registrar. Inspite of this, he approved the Tie up business in Non Agricultural Commodities and thus acted against the Byelaws and allowed Shri. Guru Swarup Srivastava (A-1) to misappropriate the funds of NAFED in conspiracy with the other officials of NAFED namely Sh. Meher Srivastava (A-3) and Sh. Subhash Chandra Shah (A-5). Being MD Of NAFED, as per Bye-laws it was his duty to ensure safe custody of cash, properties and other securities of NAFED. He failed to conduct the affairs of NAFED in conformity with the act and Rules and Bye-laws. He also failed to check the huge disbursement of Rs. 235.59 Crores to M/s. Swarup Group of Industries. He was also responsible for supervision and management of the business affair of NAFED and proper maintenance of account. He allowed the funds received by NAFED from various banks for dealing in Agricultural Commodities to be disbursed for an unauthorized business in Non Agricultural Commodities and further to be misappropriated by Sh. Guru Swarup Srivastava (A-1) and thus failed to safeguard interest of NAFED. Sh. Alok Ranjan (A-4) used to take meetings with all Divisional Heads and discuss the Developments of their division in presence of other Divisional Head except the Division headed by Sh. Homi Rajvansh (A-2) i.e. Tie-up Division. He used to discuss Tie-up division matter only with Sh. Homi Rajvansh (A-2) in isolation."

17. It is thus clear that though it is alleged that there was conspiracy to forge documents, there is no material on record at all, to show that the petitioner knew or was party to the alleged forgery committed by accused No. 1 Guruswarup. It is another thing whether respondent No. 4 was aware of it or not. I am told that he has filed discharge application which is pending before the trial court. I am therefore, not inclined to make any observations in respect of respondent No. 4. It is possible for accused No. 2/respondent No. 4 also to demonstrate that he was not party to the alleged forgery and using the forged documents as genuine and other offences as alleged against him. However, this petition is confined to the merits of the case against petitioner Alok Ranjan. The

first ever charge against him is that he approved tie up business for non agricultural commodities disregarding the existing byelaws. There is no dispute that the byelaws did not permit the NAFED to enter into tie up business with private firms for on agricultural commodities. However, as already stated the phenomena was not new to the NAFED and NAFED had earlier also done business of non agricultural produce. It is in these circumstances that the first tie up with Swarup Group was approved by the petitioner. I have stated earlier that though second tie up with Swarup Group did not have approval of the petitioner, it cannot be said that the petitioner was not aware of the said tie up business. The chargesheet however, does not allege that the petitioner had any dishonest intention while approving the first tie up business or had developed any dishonest intention at the later stage. The chargesheet also did not disclose that the petitioner had received any pecuniary advantage due to the tie up business with Swarup Group. For that matter chargesheet also does not disclose that respondent No. 4 had received any pecuniary advantage out of the said tie up business. The chargesheet only alleges that tie up business in non agricultural produce was done though the byelaws did not permit to do so. This court cannot ignore the fact that the investigating officer has failed to investigate in detail as to whether business committee had approved the acts of the applicant and respondent No. 4. The business committee was superior body of which the petitioner was one of the members. Though the Chairman of the business committee Mr. Ajit Singh was no more when the investigation was taken up, the Investing Officer has failed to record statements of two Vice Chairmen to find out as to whether the petitioner had any dishonest intention while approving the first tie up business or he wanted to increase margin of profit of NAFED. The Investigating Officer had also failed to investigate as to whether the diversification decision was taken as a policy decision particularly when the byelaws were later on approved by the Central Registrar to enter in non-agricultural tie ups. In the circumstances, it can be safely said that there is no material in the chargesheet at all to indicate that the petitioner had entered into the conspiracy with respondent No. 4 and other accused to forge the documents and to use the same as genuine document. There is no material on record as to how much amount was misappropriated and in what manner it was misappropriated by the petitioner. The chargesheet in fact as a whole does give picture that there was bypass to the byelaws by the Authorities of NAFED. As far as accused belonging to Swarup Group are concerned, their case is totally on different footing and does not require any discussion in the present order. Unless there is material, direct or circumstantial, to indicate that the loss was caused to NAFED dishonestly which resulted in pecuniary advantage to the petitioner, it is not possible to say that petitioner had committed the alleged offence. Simply because the transaction caused loss to NAFED, it cannot be presumed that the persons authorized to take decision had dishonest intention and that the alleged forged documents were prepared by Swarup Group''s accused in pursuance of conspiracy with such authorities. Presumption of innocence is always there till the accused is convicted.

18. No doubt, it is not possible for any investigating agency to get direct evidence of conspiracy. It is very well established law that the conspiracy part of the offence has to be examined on the basis of the circumstances found in the facts of the case. Learned Additional Public Prosecutor Mr. Venegaonkar has not been able to point out facts on record which may indicate that there was conspiracy in the alleged offences of forgery and cheating. Therefore, charge u/s. 409 and 411 read with 34 of Indian Penal Code may not arise at all as against the petitioner.

19. I have carefully gone through all the paragraphs in the chargesheet to find out as to whether any other fact is available against the petitioner in any other paragraph except paragraph 8. However, result was nil. Learned A.P.P. though asked repeatedly to point out as to where did the conspiracy exist to involve the petitioner, was unable to point out anything in the chargesheet or in the statements of the witnesses to show that prima facie case of conspiracy existed against the petitioner. There are four lines highlighted by the prosecution again and again which can be reproduced as under (part of para 8 of the chargesheet) :

"Sh. Alok Ranjan (A-4) used to take meetings with all Divisional Heads and discuss the Developments of their division in presence of other Divisional Head except the Division headed by Sh. Homi Rajvansh (A-2) i.e. Tie-up Division. He used to discuss Tie-up division matter only with Sh. Homi Rajvansh (A-2) in isolation."

20. Discussions in isolation by the two senior officers of any institution is a common factor in all big institutions and that by itself cannot lead to even prima facie conclusion that there was any conspiracy to cause loss to NAFED.

21. As such, after having considered the charesheet as a whole and particularly the allegations against the petitioner and after having heard learned counsel Mr. Vishwajeet Singh for the petitioner, Mr. Kohli for respondent No. 4 and learned A.P.P. for respondent No. 2, following factors emerge :

"(1) NAFED was set up with an object to promote, cooperative marketing of agricultural produce to benefit the farmers.

(2) The petitioner and respondent No. 4 were working as Managing Director and Additional Managing Director respectively at the relevant time.

(3) The byelaws did not permit NAFED to enter into a tie up business in the non-agricultural commodities.

(4) NAFED has taken a decision to enter into tie up business in non agricultural commodities before the petitioner joined the NAFED.

(5) Both the tie up MOUs with Swarup Group were executed by respondent No. 4.

(6) The first tie up business was approved by the petitioner.

(7) The second MOU which was for larger amount was not put up before the

petitioner.

(8) The major loss to NAFED was caused due to second MOU.

(9) The the petitioner was aware of the second MOU and his office was getting periodical reports thereof.

(10) The loss caused to NAFED was secured by attachment of the property of Swarup Group.

(11) The decision to enter into tie-up business in non agricultural commodities was due to shrinking business of NAFED.

(12) There is no material to indicate that the petitioner had any ill intention when he approved the first tie up business.

(13) The second tie up business was not approved by the petitioner. There is no material to indicate that he had later on developed dishonest intention or ill intention in second transaction.

(14) Respondent No. 4 was acting M.D., at the time of second MOU. Petitioner was out of India.

(15) NAPHED was later on permitted to enter into tie up business in non agricultural commodities by the Central Registrar as per amended bye-laws.

(16) The Learned A.P.P. had not been able to point out any direct or circumstantial material on record to indicate that the petitioner was part of the alleged conspiracy or he had gained any pecuniary advantage due to failure on the part of Swarup Group to repay the amount of about Rs. 149 Crores."

21. In the result, I pass the following order:

"The proceedings pending against the petitioner in the court of Metropolitan Magistrate, 19th Court, Esplanade, Mumbai vide Criminal Case No. 1036/CPW/2008 are hereby quashed."

