

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1292 OF 2014

Nitin Pramod Samel.

..Applicant.

Versus

Tomas Anton Aruz and Another.

..Respondents.

Mr. G. K. Gole for the Petitioner.

Mr. B. R. Patil for Respondent No.1.

Mr. K. V. Saste, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **December 24, 2014.**

P. C. :

1. At the outset, Mr. Gole, the learned Counsel appearing for the Applicant seeks leave to amend the prayer clauses so as to incorporate the particulars of criminal proceedings. Leave granted. Necessary amendment be carried out forthwith.

2. Heard. By this application under section 482 of the Code of Criminal Procedure, 1973, the Applicant has sought for quashing of criminal proceedings, being RCC.No. 743 of 2013 pending on the file of JMFC, Vasai which has arisen from FIR/CR.No.105 of 2012 registered at Vasai Police Station against the Applicant for the offence punishable under sections

420, 465, 466, 468, 471 and 34 of the Indian Penal Code, 1860.

3. The said FIR is registered against the Applicant at the instance of Respondent No.1 on the allegation that forged power of attorney was prepared by the agent of the Applicant and in pursuance of the same, N.A. Permission was applied for.

4. The learned Counsel appearing for the respective parties submitted that after filing of the said FIR, the Applicant and Respondent No.1 have settled their dispute amicably. Respondent No.1 has sold out the property in question to the Applicant by the sale-deed dated 29th September 2014. The learned Counsel submitted that as the dispute is settled between the parties, Respondent No.1 does not want to proceed with the said criminal proceeding against the Applicant.

5. Respondent No.1 has filed an affidavit in this Court wherein he has stated that he has no objection if the criminal proceedings initiated by him against the Applicant are

quashed. Respondent No.1 is personally present before us. On specific query made by us, he submitted that he has made the affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the criminal proceedings in question initiated by him against the Applicant for the offence punishable under sections 420, 465, 466, 468, 471 and 34 of the Indian Penal Code, 1860.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the crime. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In the light of principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we

are of the considered view that there is no impediment in quashing the criminal proceedings.

7. Accordingly, application is allowed in terms of prayer clause (b). As the police and Court machinery was put into motion due to unfortunate differences of opinion, we find it would be appropriate to saddle the Applicant with the cost of Rs.10,000/-, which shall be paid to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. For the quashment to take effect, the Applicant shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]