

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.7 OF 2014**

1. Mr.Azam Ali Khan; Petitioners.
2. Mrs Shaista I. Mogul.

Vs

1. Senior Police Inspector,
Santacruz Police Station,
Mumbai; .. Respondents
2. The Deputy Commissioner
of Police, Mumbai;
3. The State of Maharashtra;
4. The Bombay Catholic Co-
operative Housing Society
Ltd;
5. Ramesh Sumermal Shah,

Ms.Farhana Shah i/b R.K.Malkani, Advocate for Petitioners.

Mrs. M.M.Deshmukh, APP for Respondents-State.

Ms. Kausar Banatwala i/b Tushar A.Goradia, Advocate for
Respondent no.5.

CORAM : RANJIT MORE & R.G.KETKAR,JJ.

DATE : 19th OCTOBER, 2015.

PC:

1. Heard learned counsel and learned A.P.P appearing for the
respective parties.

2. This petition is filed under Article 226 of the Constitution of
India read with provisions of Section 482 of the Code of Criminal
Procedure, 1973 for quashing and setting aside FIR, bearing
C.R.No..767/2013 registered with Santacruz Police Station against
the petitioners at the instance of respondent No.5 for offences
punishable under Sections 420,423,448,506 read with Section 34 of
the Indian Penal Code, 1860.

3. Pending investigation, the parties settled their dispute amicably and pursuant to the understanding arrived at between them, have approached this Court for quashing and setting aside the subject FIR by consent. Respondent no.5 has filed an affidavit dated 17.10.2015. In paragraph 5, he has given no objection for quashing and setting aside the subject F.I.R, bearing no. 767 of 2013, registered with Santacruz Polcie Station against the petitioners. Respondent no.5 who is personally present in Court, confirms the contents of the affidavit and stated that whatever has been stated in the affidavit is true and correct, and on our specific query, he states that he has no objection if the subject FIR is quashed and set aside against the petitioners.

4. It can, thus, be seen that the dispute is totally personal in nature, which has now been settled amicably. From perusal of the complaint, it transpires that the allegations are personal in nature. There is no element of public law involved in the case. In these circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh and Ors. versus State of Punjab and Anr. 2014 AIR (SCW) 2065,** we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of

justice, the subject FIR is required to be quashed and set aside. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

5. Accordingly, Petition is allowed in terms of prayer clause (a), subject to payment of costs of Rs.10,000/- by the petitioners. The petitioners shall deposit the costs of Rs.10,000/- with Tata Memorial Hospital for the use of its philanthropic purposes and thereafter produce the receipt thereof on the file of this petition within a period of two weeks from today, failing which, the criminal writ petition shall stand dismissed automatically without further reference to the Court.

6. Subject to above, the criminal writ petition stands disposed of.

(R.G.KETKAR, J.)

(RANJIT MORE,J.)