

SSK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 366 OF 2015

1. Mr. Arif Mumtaz Khan
2. Mr. Sufiyaan Salim Picturewala
3. Mr. Sarosh Miraq Mirza
4. Mr. Parijade Khalfan Sajid Khan
versus
1. The State of Maharashtra
2. Shahid Shafiq Shaikh

....Petitioners

....Respondents

Mr. Randhir Singh i/b. Mr. M. H. Mulla, advocate for the petitioners.
Mr. K. V. Saste, APP for the State.
Mr. Niranjana Mundargi i/b. Mr. Vasim Siddiqui, advocate for respondent No.2.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 10th February, 2015.

P.C.:

Heard learned counsel and learned APP appearing for the petitioners and respondents respectively.

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 the proceedings of Sessions Case No.101 of 2014 pending on the file of learned Sessions' Judge, 37th Session Court. The said case arises out of FIR No. 137 of 2013 registered against the petitioners at the instance of respondent No.2 by Versova Police Station for the offences punishable under Sections 395, 397, 323, 506(II) of the Indian Penal Code, 1860.

3. We have perused the charge-sheet. Perusal of the same does not disclose offences under Sections 395 and 397 of the Indian Penal Code, 1860. During the pendency of the trial, the parties to the petition have settled their dispute amicably and, in pursuance of an understanding arrived at between them, filed the instant petition for quashing of the proceedings of the aforesaid criminal case by consent. Respondent No.2 has filed an affidavit dated 21st January, 2015. In paragraph 6 of the said affidavit, he has stated that he has no objection for quashing the proceedings of the criminal case against the petitioners. Respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection, if the proceedings arising out of criminal case are quashed and set-aside. He also stated that he is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

4. 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 offence. The offence alleged cannot be said to have any impact on the society. In the instant case, the accused and the complainant are young boys between age group of 18 and 21 year. 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 are of the view that quashing of the criminal proceedings would be in the interest of the parties. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. 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. In the light of the 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.

6. Accordingly, the petition is allowed in terms of prayer clause (b) subject to payment of cost of Rs. 20000/- by the petitioners to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. The petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)