

SSK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 393 OF 2015

Mr. Shahid Shafiq ShaikhPetitioner

versus

1. The State of Maharashtra

2. Mr. Arif Mumtaz Khan

3. Mr. Sufiyaan Salim Picutewala

4. Parijade Khalfan Saji Khan

5. Mr. Muzaffar Naeem KureshiRespondents

Mr. Niranjan Mundargi i/b. Mr.Vasim Siddiqui, advocate for the petitioner.

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

Mr. Randhir Singh i/b. Mr. M. H. Mulla, advocate for respondent

Nos. 2 to 4.

**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 case No. 390/PW/2014 pending on the file of learned Metropolitan Magistrate, Railway Mobile Court at Andheri. The said case arises out of FIR No. 53 of 2013 registered against the petitioner at the instance of respondent No.2 by Versova Police Station for the offences punishable under Sections 324, 504, 506 and 34 of the Indian Penal Code, 1860. Respondent Nos. 3 to 5 are the injured victims.

3. 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 Nos.2 to 5 have filed an affidavit dated 27th January, 2015. In paragraph 6 of the said affidavit, they have stated that they have no objection for quashing the proceedings of the aforesaid criminal case. Respondent Nos.2 to 5 are personally present before the Court. On being questioned, they specifically stated that they have gone through the affidavit and have fully understood the contents thereof and have no objection, if the proceedings arising out of criminal case are quashed and set-aside. They have also stated that they are 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. 10000/- by the petitioners to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. The petitioner 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.)