

SSK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 154 OF 2015**

Mr. Mahendra S/o. Jugraj Sanghvi

....Applicant

versus

1. State of Maharashtra

2. Pankaj Sunderlal Shah

....Respondents

Mr. Vinit V. Jain, advocate for the applicant.

Mrs. S. V. Sonavane, APP for the State.

Mr. Swapnil D. Savekar, advocate for respondent No.2.

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

DATED : 23rd February, 2015.

P.C.:

This application is filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of criminal case No.1626/PW/2011 pending on the file of learned Metropolitan Magistrate, 10th Court at Andheri, Mumbai. The said case arises out of C.R. No.193 of 2011 registered by D. N. Nagar Police Station, Andheri, Mumbai against the applicant and other accused, at the instance of respondent No.2 for the offences punishable under Sections 406 and 34 of the Indian Penal Code, 1860 (for short "the IPC").

2. During the pendency of the trial, the parties to the application settled their dispute amicably and, in pursuance of an understanding

arrived at between them, filed the instant application for quashing the proceedings of the said criminal case by consent. Respondent No.2 has filed an affidavit dated 5th February, 2015. In paragraph 3, he has stated that he has no objection for quashing the proceedings of the said FIR and criminal case against the applicant and other accused. 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 the FIR and 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.

3. 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 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. 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.

4. 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.

5. Accordingly, the application is allowed in terms of prayer clause (b) subject to payment of cost of Rs.5000/- by the applicant to the **“Shanti Avedna Sadan”** an institution that takes care of the advanced and terminally ill cancer patients. The applicant shall pay the said cost and produce the receipt thereof on the file of this Court within a period of two weeks from today.

7. Subject to above, the criminal application stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)