

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 764 OF 2015

Mahavir Eletric & Hardwar Store
and Another.

..Petitioners.

Versus

State of Maharashtra & Others.

..Respondents.

Ms. Nipa Shah for the Petitioners.

Mr. Rai S. Mittal, representtaive of Respondent No. 3.

Ms. Merlyn Monteiro for Respondent No. 3

Mrs. U. V. Kejriwal, learned APP for the State.

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

Date : **April 22, 2015.**

P. C. :

1. By this petition, the Petitioners have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of MECR No.10/2004 pending with CB, CID, Mumbai. The said MECR is registered pursuant to the order made by the learned Additional Chief Metropolitan Magistrate, 28th Court at Esplanade, Mumbai in C.C.No.368/M/2004, under section 156(3) of the Code.

2. The learned Counsel appearing for the respective parties

submitted that during the pendency of investigation, the parties have amicably settled their differences by way of mutual settlement and in pursuance of such understanding, the present petition is filed for quashing the proceedings of above MECR, by consent of Respondent No. 3, who is original complainant.

3. In the present petition, one Mr. Rai Saheb Mittal, the constituted attorney / Authorized representative of Respondent No.3 has sworn an affidavit dated 11th March 2015. In the affidavit, he has stated that disputes between the Petitioners herein and Respondent No.3 is settled and Respondent No. 3 has no objection for quashing MECR No. 10 of 2004.

4. Said Mr. Rai Mittal is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that Respondent No. 3 has no objection for quashing the criminal proceedings in question initiated by them against the Petitioners vide MECR No. 10 of 2004 and CC No. 368/M/2004.

5. 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. 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.

6. 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 proceeding. Accordingly, petition is made absolute in terms of prayer clause (a). The proceedings of subject MECR No.10/2014 and subject CC No. 368/M/2004 are quashed *qua* the Petitioners only. As the police machinery and Court machinery was put into motion due to private disputes between the parties, we find it would be appropriate to saddle the Petitioners with the cost of Rs.10,000/- each, which shall be paid to the "**Shanti Avedna Sadan**" an institution that takes care of

the advanced and terminally ill cancer patients.

7. For the quashment to take effect, the Petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today, failing which the petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings shall be treated as *non-est*.

8. Writ petition stands disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]