

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 207 OF 2015

Pawan Mulchand Mehta @ Raja
and Another.

..Applicants.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. M. K. Kocharekar for the Applicant.

Mrs. Sonal V. Parab i/b Rajeev Sawant & Associates for Respondent No.
2.

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

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

Date : **March 10, 2015.**

P. C. :

1. By the instant application under the provisions of section 482 of the Code of Criminal Procedure, 1973 , the Applicants are seeking to quash the proceedings of FIR No. 41 of 2015 registered with BKC Police Station against them for the offence punishable under sections 406 and 420 read with 34 of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No.2.

2. The learned Counsel appearing for the respective parties submitted that the FIR came to be lodged out of misunderstanding

between the parties. Parties have during the pendency of investigation settled their disputes. They belong to the same business community and therefore have decided to put an end to criminal proceedings. The learned Counsel further submitted that in the light of such understanding arrived at between them, the Applicants have filed present application for quashing the FIR, by consent.

3. In this application, Respondent No.2—the complainant has filed an affidavit dated 5th March 2015, wherein he has stated that the disputes between himself and the Applicants are amicably settled and therefore he is not desirous of continuing the prosecution of FIR in question against the Applicants.

4. Respondent No.2 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 he has no objection for quashing the FIR in question lodged by him against the Applicants for the offence punishable under sections 420 and 406 read with 34 of the Indian Penal Code, 1860.

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. There is no element of public law involved in the crime. The offence alleged cannot 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, application is allowed in terms of prayer clause (a). As the police machinery was put into motion by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Applicants with the cost of Rs.15,000/- each, which shall be paid to the “**Shanti Avedna Sadan**” an institution that takes care of the advanced and terminally ill cancer

patients. For the quashment to take effect, the Applicants shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today.

7. The learned Counsel appearing for Respondent No.2 at this stage submitted that 12 packets of diamond as well as brokerage amount has been seized by the Investigating Agency from the Applicants under the Panchanama dated 26th February 2015. She submitted that in fact these diamonds and brokerage amount belong to Respondent No. 2. she submitted that orders may be passed for retrning of these articles to Respondent No. 2. She drew our attention to para 7(d) of the petition, which reads thus :

"That the present applicants have no objection if the said 12 packets of diamond as well as the brokerage amount seized by Respondent No.1 in FIR No. 41 of 2015 vide panchanama dated 26/2/2015 are returned to the Complainant / Respondent No. 2 in view of final disposal of present case."

8. Learned APP for the State does not dispute that investigating agency has seized the aforesaid articles and amount from the Applicants. Since the disputes between the parties are amicably settled and the Applicants have no objection for return of the articles and amount to Respondent No.2, Respondent No.2 is granted liberty

to make an application to the investigating agency for return of above articles and amount seized from the Applicants under the Panchanama dated 26/2/2015 in C.R.No. 41 of 2015. The investigating agency upon such application shall return the articles and amount to Respondent No.2.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]