

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 245 OF 2015

P. Koteshwara Rao & Ors. ..Applicants.

Versus

Vimal Mahendra Thosani and Another. ..Respondents.

Mr. S. M. Oak i/b Mandar Limaye for the Applicants.

Mr. Ganesh Gole i/b Ms. Meghna Gowalani for Respondent No. 1.

Mr. S. K. Shinde i/b Mrs. M. H. Mhatre, learned APP for the State.

Coram : RANJIT MORE &
R. G. KETKAR, JJ.

Date : **October 20, 2015.**

P. C. :

1. Heard learned Counsel appearing for the respective parties. By this application under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash and set aside FIR bearing CR/MECR No.2 of 2015 registered with Mulund Police Station. The said FIR is registered against the Applicants at the instance of Respondent No.1, wherein the charges levelled are for the commission of offence punishable under sections 420, 406, 409, 504 and 506-II read with 34 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation of above FIR, with the help and intervention of friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement by

entering into Memorandum of Understanding and pursuant to the same, present application is filed for quashing the above FIR, by consent of Respondent No.1.

3. The complaint is filed by Respondent No.1 – Mr. Vimal Thosani, as a partner of M/s. Vinay Pharma, a partnership firm. The learned Counsel appearing for the Respondent No.1 submitted that there are only two partners, namely, Respondent No.1 and Purvish Thosani. He submitted that both the partners have no objection to quash the subject FIR/MECR. Respondent No.1 has filed affidavit dated 20th October 2015, wherein he has stated that parties have settled their disputes by entering into MoU and subject to the fulfillment of terms and conditions mentioned therein, he has no objection to quash and set aside the subject FIR/MECR against the Applicants. Respondent No.1 as well as the other partner of the firm, namely, Purvish Thosani is present in the Court. On specific query made by us, they submitted that they have no objection for quashing the FIR/MECR in question initiated by them against the Applicants. They confirmed the contents of affidavit made by Respondent No. 1 and submitted that affidavit is made at their own free will, without there being any pressure or undue influence.

4. The learned Counsel appearing for the Applicants makes

a statement that as per the MoU, the balance amount amount of Rs.42 lacs and C-Form amount of Rs.1,75,10,350/- is already given to Respondent No.1. This statement is not disputed by the learned Counsel appearing for the Respondent No.1. The learned Counsel appearing for the Applicants further makes a statement that remaining C-Form amount of Rs.2,40,151/- will be given to Respondent No.1 within 10 days from today. The learned Counsel appearing for the Respondent No.1 makes a statement that Summary Suits filed by Respondent No.1 in the City Civil Court, Mumbai being Summary Suit Nos.1194 of 2014, 1195 of 2014, 1196 of 2014 and 3444 of 2014 will be withdrawn by Respondent No.1 by making appropriate applications before the said Courts. Statement is accepted as undertaking to this Court.

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 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 FIR pending except ultimately 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 FIR / MECR. Accordingly, application is allowed in terms of prayer clause (a). As the police machinery and Court machinery was used 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 Petitioner with the cost of Rs.20,000/-, 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. Failing to pay cost and produce receipt within stipulated time, application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]