

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1179 OF 2014

Bharat Co-operative Bank (Mumbai) Ltd
and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. P. L. Shetty for the Petitioner.

Mr. K. D. Shukla for Respondent No. 1.

Mrs. M. M. Deshmukh, learned APP for the State.

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

Date : **April 28, 2015.**

P. C. :

1. By this writ petition, filed invoking the jurisdiction of this Court under Article 226 of the Constitution of India and also under section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking to quash the proceedings of FIR / MECR No.3 of 2008 registered at Turbhe Police Station against them at the instance of Respondent No.2 for the offence punishable under sections 420, 403, 406, 465, 467, 471 and 506(II) read with 120(B) of the Indian Penal Code, 1860. The said FIR is registered pursuant to an order passed by the learned JMFC, Belapur under section 156(3) in the proceedings bearing OMA No. 643/Misc/2008 taken out by Respondent No. 2.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation, the parties have come together and settled their disputes amicably and in pursuance of such understanding arrived at between them, the Petitioners have filed present petition for quashing the subject FIR, by consent of original complainant – Respondent No.2 herein.

3. In this petition, Respondent No.2 has filed an affidavit dated 15th April 2014. In paragraph 21 of the said affidavit, he has stated thus :

“21. I say and submit that the present petition being WP/1179/2014 is filed by the Petitioners bank seeking the direction of this Hon'ble Court to quash the FIR and investigation in MECR No. 3 of 2008 of Turbhe Police Station arising out of the Court Case No. OMA/643/2008 (RCC No.1100890/2009) from the file of the learned JMFC, CBD Belapur Court of the offence punishable under section 403, 420, 406, 465, 467, 471, 506(II) read with 120(B) of the Indian Penal Code, 1860 as per the complaint lodged by Respondent No. 2 herein. I say and submit that now the dispute between the Petitioner bank and Respondent No. 2 company are amicably and finally settled and before the Arbitrator both the parties to the dispute including myself who is the Director of Respondent No. 2 company have undertaken to withdraw all the proceedings including Criminal proceedings pending before all the forums. I say and submit that therefore Respondent No.2 has got no objection to quash and set aside the case pending against the Petitioners herein in the Court of the learned JMFC, CBD Belapur, Navi Mumbai vide the Court Case. No. OMA/643/2008 (RCC No.1100890/2009) as prayed by the Petitioners herein on such terms and conditions as this Hon'ble Court deems fit and proper.”

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 criminal proceedings in question initiated by him against the the Petitioners, being FIR / MECR No. 3 of 2008 of Turbhe Police Station.

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 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 subject FIR.

7. Accordingly, petition is made absolute in terms of prayer clause (b). As the police machinery and Court machinery was put into motion by the parties to settle their private disputes, we find it would be appropriate to saddle the Petitioners with the cost of Rs.5,000/- 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 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 to pay cost and produce receipt within stipulated time, petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station that FIR / MECR shall not be treated to have been quashed and that police shall proceed against the Petitioners in accordance with law.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]