

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 308 OF 2015

Yogesh Amritlal Patel.

..Applicant.

Versus

Navinchandra Nanaji Sewreewala
and Another.

..Respondents.

Mr. Pawan Mali for the Applicant.

Mr. Abhijit N. Gosavi for Respondent No. 1.

Mrs. M. H. Mhatre, learned APP for the State.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **April 16, 2015.**

P. C. :

1. By this application under section 482 of the Code of Criminal Procedure, 1973 , the Applicant is seeking to quash the proceedings of criminal case bearing C.C.No.294/PW/2004 pending on the file of additional Chief Metropolitan Magistrate, 2nd Court, Mazgaon at Sewree, Mumbai. The said case has arisen from C.R.No.22 of 2004 registered with Pydhonie Police Station Mumbai on 21st January 2004 at the instance of Respondent No. 1. The Petitioner is being prosecuted for the offence punishable under section 465, 467, 468, 474, 420 and 418 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of trial, the parties to the proceeding have settled their disputes amicably and as per the understanding arrived at between them, the Applicant has arrived the present application for quashing, by consent of the Complainant.

3. In the present application, Respondent No.1 has filed an affidavit dated 1st April 2015. In the said affidavit the he is not interested in continuing with the criminal proceeding against the Applicant. He has solemnly affirmed that he has no objection for quashing the proceedings of the criminal case CC. No. 294/PW/2004 as matter is amicably settled between the parties. Along with the said affidavit, Respondent No. 1 has produced resolution passed by Vasundhara CHS Ltd, whereunder he has been authorised to settle the subject legal case against the Applicant.

4. Respondent No.1 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 Applicant.

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 criminal proceedings. 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 Applicant with the cost of Rs.10,000/-, 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 Applicant 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*.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]