

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2199 OF 2015

Ram Shaila Hemram & Anr.

..Petitioners

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. R.V.Gupta for the Petitioner.

Mr.M.B.Mokashi i/b. M.N.Chitarmat for the Respondent No.2.

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

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JUNE 26, 2015.**

P.C.

1. This petition is filed under Article 226 & 227 of the Constitution of India r/w. with the provisions of Section 482 of Cr.PC. for quashing the proceeding of C.R.No 159 of 2015 registered at the instance of the respondent no.2 by L.T. Marg, Police Station, Mumbai, for the offence punishable under Section 324 r/w. Section 34 of the Indian Penal Code.

2. Pending investigation, parties settled their dispute and they

have approached this court in pursuance of the understanding arrived between them.

3. The FIR reveals that name of the informant is shown as Jamaluddin Malik, respondent no.2 Kalim Jamaluddin is the son of Jamaluddin Malik. The petitioner as well as the counsel for the respondent makes a statement that Jamaluddin Malik, father of the respondent no.2 has expired 30 years back and the FIR was lodged by the respondent no.2. However, name of his father was wrongly recorded in the FIR. We find substance in the statement. As much as the FIR is also signed by the respondent no.2. This position is also not disputed by the learned APP.

4. The respondent no.2 thereafter settled the dispute amicably. The respondent no.2 accordingly has filed affidavit dated 23rd June, 2015. In paragraph 6 of the affidavit, no objection is given for quashing the proceeding of the said criminal case.

5. Respondent No.2 is personally present before the Court. On specific query made by us, he submitted that he has made the said statement in the 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 Petitioner for the offence punishable under sections 324 r/w. 34 of the Indian Penal Code, 1860.

6. It can thus be seen that the dispute between the parties is settled. The allegation made against the petitioners is personal in nature and no element of public law is involved in the crime. In the 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.

7. 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.

8. Accordingly, petition is allowed in terms of prayer clause (a).

9. As a condition precedent for this order to take effect, the Applicant shall pay costs of Rs.5000/- (Rupees Five Thousand Only)

to the cancer hospital, namely Tata Memorial Cancer Hospital, Mumbai and produce a copy of the receipt on the file of this petition within a period of three weeks from today

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)