

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2766 OF 2015

Kamran Javed Shaikh and Another. . ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Moin Khan i/b Ms. Anjali Awasthi for the Petitioners.
Ms. Priyanka Ghosh i/b Altaf Khan for Respondent No. 2.
Mrs. M. H. Mhatre, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **July 17, 2015.**

P. C. :

1. By this petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking to quash CR No. 205 of 2015 registered with Dongri Police Station. The said CR is registered against the Petitioners at the instance of Respondent No.2 for the offence punishable under sections 354, 509 and 323 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the same, present petition is filed for quashing the above CR, by

consent of Respondent No.2.

3. Respondent No.2 has filed an affidavit dated 8th July 2015. In paragraph 7 of the said affidavit, she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners and has no objection for quashing the proceedings of CR No. 207 of 2015.

4. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the CR in question initiated by her against the Petitioners for the offence punishable under sections 354, 509 and 323 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 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 said CR 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 CR in question against the Petitioners. Accordingly, petition is made absolute in terms of prayer clause (a). However, in the facts and circumstances, 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 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, 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.]