

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 789 OF 2015

M/s. Mazda Hospital & Industrial
Equipments Pvt. Ltd and Others.

..Applicants.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Harshad Patwe i/b Mayur Thorat for the Applicants.

Mr. Harshwardhan Salgaonkar for Respondent No. 2.

Mr. K. V. Saste, learned APP for the State.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **August 13, 2015.**

P. C. :

1. At the oral request of the learned Counsel appearing for the Applicant, leave to amend is granted.

2. Heard the learned Counsel appearing for the Applicants and the learned Counsel appearing for Respondent No.2. The Applicants, by this application under section 482 of the Code of Criminal Procedure, 1973, are seeking to quash the MECR No.6 of 2012 registered with Bandhup Police Station against them for the offence punishable under sections 420, 465, 468, 471, 475, 476 read with 120B of the Indian Penal Code, 1860. The said MECR is registered upon the directions issued by learned Metropolitan Magistrate, 53rd Court, Mulund Mumbai in a proceeding under section 156(3) of the Code of Criminal

Procedure, 1973, being CC.No.84/M/2012 initiated by Respondent No.2.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation in the said MECR, with the help and intervention of friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement. They further submitted that the consent terms are already filed before the Small Causes Court in T.E. Suit No. 75/91 of 2013. They submitted that pursuant to understanding arrived at between the parties, present application is filed for quashing the above MECR, by consent of original complainant Respondent No.2 herein

4. In the present application, one Mr. Dilip Sawant, Director of Respondent No.2 has filed an affidavit of the instant date. In the said affidavit, he has stated that disputes between the parties have been resolved amicably and they have filed consent terms before the Small Causes Court and therefore, Respondent No. 2 is not interested in continuing with the criminal prosecution of the Applicants in MECR No.6 of 2012. He has solemnly affirmed that he has no objection for quashing the MECR No.6 of 2012 registered pursuant to the directions issued by the Magistrate under section 156(3) of the Code of Criminal Procedure, 1973 in CC No.84/M/2012. He submitted that affidavit is filed by him pursuant to the authority given to him by the

Board of Directors in their meeting held on 2nd April 2012.

5. Said Mr. Dilip Sawant 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 MECR in question initiated by him against the Applicants for the offence punishable under sections 420, 465, 468, 471, 475, 476 read with 120B of the Indian Penal Code, 1860.

6. 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 FIR in question pending except ultimately burdening the Criminal Courts which are already overburdened.

7. In the light of 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 MECR/FIR. Accordingly, application is allowed in terms of prayer clause (b). 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 with the cost of Rs.25,000/- 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, application 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.]