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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3122 OF 2014

Musa Ismail Lakdawala

....Petitioner

versus

1. The State of Maharashtra

2. Vishwamani M. Tiwari

....Respondents

Mr. Rajendra Shirodkar i/b. Mr. Archit Sakhalkar and Mr. Nihar Ghag,
advocate for the petitioner.

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

Mr. M. H. Mulla i/b. Mr. Rajendra Rathod, advocate for respondent No.2.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 10th February, 2015.

P.C.:

Heard learned counsel and learned APP appearing for the
petitioner and respondents respectively.

2. This petition is filed under Article 226 of the Constitution of India read with provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of criminal case No.11/PS/2010 pending on the file of learned Metropolitan Magistrate, 37th Court at Esplanade, Mumbai. The said case arises out of FIR No. 60 of 2007 registered against the petitioner and other accused at the instance of respondent No.2 by Azad Maidan Police Station for the offences punishable under Sections 143, 147, 447, 342, 506 and 323 of the Indian Penal Code, 1860.

3. During the investigation of the said crime, the parties to the petition have settled their dispute amicably and, in pursuance of an understanding arrived at between them, filed the instant petition for quashing of the proceedings of the aforesaid criminal case by consent. Respondent No.2 has filed an affidavit dated 10th February, 2015. In paragraph 8 of the said affidavit, he has stated that he does not wish to prosecute the said criminal case and has no objection for quashing the said proceedings against the petitioner. Respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection, if the proceedings arising out of criminal case No.11/PS/2010 against the petitioner and other accused are quashed and set-aside. He also stated that he is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

4. 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 offence. 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. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

5. 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.

6. Accordingly, the petition is allowed by quashing the proceedings of criminal case against the petitioner and other accused subject to payment of cost of Rs10000/- by the petitioner to the Welfare of Stray Dogs. The petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)