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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3389 OF 2015

Mohammed Irshad s/o. Rabbani Shaikh

..Petitioner.

V/s.

1. The State of Maharashtra
2. Mohammed Saddam Hussain s/o.
Mohd. Gulam Shaikh

..Respondents.

Mr.A.B.Mishra for the petitioner.

Mrs.S.V.Sonavane, A.P.P. for the respondent-State.

Mr.A.R. Shaikh for respondent No.2.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 26TH AUGUST, 2015

P.C. :-

1. Heard learned counsel for the petitioners, learned counsel for respondent No.2 and the learned A.P.P. for the State.

2. This petition is filed under Article 226 of Constitution of India for quashing the criminal proceedings bearing Case No.955/PW/2013 pending on the file of Metropolitan Magistrate, 60th Court, Kurla, Mumbai. The said criminal case arises out of F.I.R. bearing No.40/13 registered with Trombay police station at the instance of respondent No.2 against the petitioner and accused

No.2 Kamranbanu Rabbani Shaikh for the offences punishable under Sections 326, 323, 504 read with Section 34 of the Indian Penal Code. It is reported that accused No.2 Kamranbanu Rabbani Shaikh, mother of the present petitioner, has expired.

3. Pending trial, the parties approached this Court for quashing the proceedings of the subject Criminal Case by consent since they have amicably settled their dispute. Respondent No.2 has filed an affidavit dated 21st August, 2015. In paragraph 3, he has stated that he has no objection if the said Case No.955/PW/2013 is quashed. Respondent No.2 is personally present before the Court. The complainant is identified by his Advocate. On being questioned, respondent No.2 specifically stated that he has gone through his affidavit and has fully understood the contents thereof and has no objection if the criminal case is quashed. 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 **Narinder Singh vs. State of Punjab** **[2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. 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. Accordingly, the petition is made absolute in terms of prayer clause (a) subject to payment of cost of Rs.5,000/- by the petitioner, to be deposited with Tata Memorial Hospital, Mumbai for the use of its philanthropic purposes. 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, failing which the petition shall stand dismissed automatically without further reference to the Court.

6. Subject to above, the writ petition stands disposed of.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)