

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3430 OF 2015

Mr. Basil Shamrao Rath & Anr.

..Petitioners.

Versus

The State of Maharashtra & Anr.

..Respondents.

Mr. S.J.Sonkawade, advocate for petitioners.

Mrs. M.H.Mhatre, APP for the State.

Mr. Kushal Mor, advocate for respondent no.2.

Coram : RANJIT MORE &

V. L. ACHLIYA, JJ.

Date : **28th AUGUST, 2015.**

P. C. :

At the outset, the learned counsel for the petitioners seeks leave to amend the prayer clauses of the petition. Leave granted. Necessary amendment shall be carried out forthwith.

2 Petitioners have filed this petition under Articles 226, 227 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973 to quash and set aside the F.I.R. bearing C.R.No.279 of 2014 registered with Mahim Police Station and the consequential Criminal Case No.2813/PW/2014 pending

before the learned Metropolitan Magistrate, 9th Court, Bandra for the offence punishable under Section 324 r/w 34 of the Indian Penal Code, 1860 at the instance of respondent no.2 against the petitioners by consent.

3 Pending trial, parties have settled their disputes amicably and have approached this Court for quashing the subject F.I.R. and the consequential criminal proceedings by consent. Respondent no.2 has filed affidavit dated 14.8.2015. In paragraph 5 of the said affidavit, he has stated that he wishes to settle the case and/or withdraw the case registered by him against the petitioners and he has no objection if the subject F.I.R. along with the consequential criminal proceedings are quashed and set aside.

4 Respondent no.2 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 subject F.I.R. along with the consequential criminal proceedings initiated by him against the

petitioners for the offence punishable under Section 324 r/w 34 of the Indian Penal Code, 1860.

5 In the light of the principles laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab**¹ we are of the considered view that there is no impediment in quashing the subject F.I.R. along with consequential criminal proceedings.

6 Accordingly, writ petition is allowed in terms of prayer clause (b). In the facts and circumstances of the case, we deem it fit to saddle the petitioners with the cost of Rs10,000/-, which shall be paid to the “Tata Memorial Hospital” an institution that takes care of the advanced and terminally ill cancer patients.

7 For the quashment to take effect, the petitioners 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

1 [2014 AIR SCW 2065]

Court and the order quashing the subject F.I.R with the consequential criminal proceedings shall be treated as *non-est*.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]