

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3536 OF 2015

Shaikh Mohammed Tanvir Mohammed
Ejaz and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Anjali Awasti for the Petitioners.
Mrs. M. H. Mhatre, learned APP for the State.
Ms. Saeeda Shaikh for Respondent No. 2.

Coram : RANJIT MORE &
R. G. KETKAR, JJ.

Date : **October 8, 2015.**

P. C. :

1. By this writ petition under Article 226 of the Constitution of India read with the provisions of section 482 of the Code of Criminal Procedure, 1973, the Petitioners have invoked extra-ordinary and inherent jurisdiction of this Court, seeking to quash FIR / CR. No. 498 of 2015 registered with Malawani Police Station. The said FIR is registered against the Petitioners at the instance of Respondent No.2 for the offence punishable under sections 143, 147, 149, 324, 323, 504 and 506 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into FIR, with the

help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement. Pursuant to the same, present application / petition is filed for quashing the above FIR , by consent of Respondent No. 2.

3. Respondent No.2(Informant) being minor, her mother Mubina S. Sayyed has filed the affidavit for and on behalf of Respondent No. 2. She has stated that all the disputes between the parties have been amicably settled and she has no objection for quashing the subject FIR. Other injured witnesses have also filed a common affidavit giving their no objection to quash the subject FIR.

4. Respondent No. 2 is present in the Court along with her mother. So also the injured witnesses are also present in the Court. On specific query made by us, they submitted that they have made the said affidavits on their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the FIR in question against the Petitioners.

5. It can, thus, be seen that the matter has been amicably settled between the parties. It is also worth to mention that on 19th

August 2015, Respondent No.2 as well as other injured witnesses have separately written to the police that the disputes and differences between themselves and accused have been amicably settled and they do not wish to prosecute further the FIR against the Petitioners. 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. The parties are from the same community and they reside in the area and, therefore, it is in the interest of all the parties to put an end to criminal proceedings so that peace and harmony can be brought in their lives. 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 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 FIR in question. Accordingly, petition is made absolute in terms of prayer clause (a).

However, in the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioners with the cost of Rs.10,000/-, which shall be paid to the **TATA Memorial Cancer Hospital**, an institution that takes care of the advanced and terminally ill cancer patients. 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 Court and order quashing the proceedings/FIR shall stand recalled and be treated as *non-est*. Registry will then intimate the concerned Police Station that subject FIR shall not be treated to have been quashed and that police / Magistrate shall proceed against the Petitioners in accordance with law.

7. Writ petition stands disposed.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]

Certificate

Certified to be true and correct copy of the original signed Judgment / Order.