

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1084 OF 2013

Avinash B. Dhawale.

..Applicant.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. S. P. Dighe for the Applicant.

Mr. C. S. Damre for Respondent No. 2.

Mrs. M. M. Deshmukh, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **January 15, 2015.**

P. C. :

1. Mr. Dighe, learned Counsel appearing for the Applicant at the outset seeks leave to amend prayer clause (a). Leave granted. Necessary amendment be carried out forthwith.

2. This application under section 482 of the Code of Criminal Procedure, 1973 is filed for quashing the proceedings of CR. No.66 of 2013 registered with Dindori Police Station on 11th May 2013 against the Petitioner for the offence punishable under sections 420 and 468 of the Indian Penal Code, 1860. During the pendency of petition, police has filed charge-sheet in the Court of Judicial Magistrate First Class, Dindori, which is

numbered as RCC No.168 of 2014. Therefore, the Petitioner was allowed to amend the prayer clause and the Petitioner has accordingly sought for quashing of said criminal case by amended prayer clause.

3. The grievance of Respondent No.2 was that flat which was sold out by the Applicant to her, is subsequently sold by Respondent No.2 to another person. Therefore, FIR as stated above for the offence punishable under sections 420 and 468 of the Indian Penal Code, 1860 has been filed against the Applicant.

4. The learned Counsel appearing for the respective parties submitted that now the parties have amicably settled their disputes and in pursuance of that understanding the present application is filed. Respondent No.2 has filed affidavit dated 22nd October 2013. In paragraph 3 thereof, she has stated that she has settled all disputes with the Applicant and she does not wish to pursue any legal proceedings against the Applicant in the subject-matter. Further in paragraph 4 she has stated that she has no objection for quashing of the aforesaid C.R..

5. Respondent No.2 is personally present before the

Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the criminal proceedings in question initiated by her against the Applicant for the offence punishable under sections 420 and 468 of the Indian Penal Code, 1860, i.e., RCC No.168 of 2014 pending on the file of JMFC, Dindori arising from C.R.No. 66 of 2013 registered with Dindori Police Station.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of records, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the crime. 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.

7. In the light of the principles laid down by the Apex Court in the case of Narinder Singh vs. State of Punjab [2014].

AIR SCW 20651 we are of the considered view that there is no impediment in quashing the criminal proceedings. Accordingly, application is allowed in terms of prayer clause (a) and (a)(i). As the police machinery was put into motion as a corollary of an unfortunate incident at the behest of Applicant, we find it would be appropriate to saddle the Applicant with the cost of Rs.5,000/-, which shall be paid to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. For the quashment to take effect, the Applicant shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today.

8. At this stage, learned Counsel appearing for the Petitioner pointed out that the Applicant was taken into custody on 9th January 2015 after the filing of charge-sheet. Since we have quashed the proceedings of RCC No. 168 of 2014 pending on the file of JMFC, Dindori arising from C.R.No. 66 of 2013 registered with Dindori Police Station, the Applicant be released forthwith, if not required in any other.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]