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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4563 OF 2015

Zubin Soli Behramkamdin

..Petitioner.

V/s.

Chandra Moolchand Lulla and Anr.

..Respondents.

Ms. Anandini Fernandes for the petitioner.

Mr.A.A.Mehta for respondent No.1.

Mr.K.V.Saste, APP for respondent-State.

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

DATED : 11TH DECEMBER, 2015

P.C. :-

1. Heard learned counsel for the petitioner, learned counsel for respondent No.2 and learned A.P.P. for the State. This petition is filed under Article 226 of the Constitution and under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal case No.1501/PS/2015 pending on the file of learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai on the basis of F.I.R. bearing No.41/2015 registered with Marine Drive police station, Mumbai at the instance of respondent No.2 against the petitioner for the offences punishable under Section read with Section 34 of the Indian Penal

Code.

2. Pending trial, the parties amicably settled their dispute and have approached this Court for quashing the subject criminal case by consent. Respondent No.2 has filed an affidavit dated 20th November, 2015. In paragraph 10, he has stated that he has no objection if the subject criminal case is quashed. Respondent No.2 is personally present before the Court. He is identified by his Advocate. On being questioned, respondent No.2 specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection if the subject criminal case is quashed. He also stated that he is giving no objection for quashing the subject criminal case out of free will and without there being any pressure or coercion.

3. 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 V/s. 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 case No.1501/PS/2015 pending on the file of the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai is required to be quashed. However, at the same time, cost needs to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

4. Accordingly, the petition is made absolute in terms of prayer clause (a) subject to payment of costs of Rs.5,000/- to be paid by the petitioner to the Kirtikar Law library and thereafter produce the receipt thereof on the file of this petition within a period of four weeks from today, failing which, the writ petition shall stand dismissed automatically without further reference to the Court.

5. Subject to the above, the petition stands disposed of.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)