SSK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO. 4805 OF 2014**

1. Sunil Mahendra Malhotra
2. Alka Sunil Malhotra
3. Krisankant K. Sharma
4. Hafeez Khan
5. Ganesh Laxman Gurav
6. Tajmal Hussain ….Petitioners

versus

1. State of Maharashtra
2. Mr. Khadak Singh Karansingh Bhandari ….Respondents

Mr. Anand Mishra i/b. Mr. Ashok M Saraogi, advocate for the petitioners.
Mrs. P. H Kantharia, APP for the State.
Mr. Omkar Nagvekar i/b. Mr. P. V. Baddare, advocate for respondent No.2.

**CORAM : RANJIT MORE &**
**ANUJA PRABHUDESSAI, JJ.**

**DATED : 10th APRIL, 2015.**

**P.C.:**

Learned counsel for the petitioners, at the outset, seeks leave to amend the prayer clause of the petition so as give particulars of the criminal case. Leave as prayed for, is granted. Necessary amendment be carried out forthwith.

2. The petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Criminal Procedure Code, 1973 for quashing the proceedings of criminal case No. 137/PW/2015

pending on the file of learned Magistrate, 52nd Court, Mulund, Mumbai. The said case arises out of FIR No.3 of 2013 registered with Bhandup Police Station at the instance respondent No.2 for the offences punishable under Sections 143, 146, 149, 395, 452 read with Section 34 of the Indian Penal Code, 1860. After completion of the investigation, the investigating agency filed charge-sheet before the concerned magistrate Court which was numbered as criminal case No. 137/PW/2015.

3. During the pendency of the trial, the parties settled their dispute amicably and in pursuance of an understanding arrived at between them, filed the instant petition for quashing the proceedings of the said criminal case by consent. Respondent No.2 has filed an affidavit dated 10th April, 2015. In paragraph 4, he has stated that he has no objection for quashing the proceedings of the said criminal case. Respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection, for quashing and setting-aside the proceedings arising out of FIR No.3 of 2013. 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. 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. 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. 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 criminal proceedings.

6. Accordingly, the petition is allowed in terms of prayer clause (a ) subject to payment of cost of Rs.15000/- by the petitioners to the **"Shanti Avedna Sadan"** an institution that takes care of the advanced and terminally ill cancer patients. The petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within a period of two weeks from today, failing which, the petition shall stand dismissed without any further reference to the Court.

**(ANUJA PRABHUDESSAI, J.)** **(RANJIT MORE, J.)**