

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 9 OF 2016

Denis Fransis Fernandes

..Petitioner

Versus

The State of Maharashtra and anr.

..Respondents

Mr. Deepak V. Dere, advocate for the petitioner.

Mrs. S. V. Sonavane, APP for the State.

Ms. Sheetal Gaikwad, advocate for respondent No.2.

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

DATE : 18th FEBRUARY, 2016.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The petition is filed for quashing the FIR bearing C.R. No.I-159 registered with Dombivali Police Station, at the instance of respondent No.2, for the offence punishable under Section 326 of the Indian Penal Code, 1860.

3. Pending investigation, the parties to the petition settled their dispute amicably and, in pursuance of an understanding arrived at

between them, filed the instant petition for quashing the subject FIR by consent. Respondent No.2 has filed an affidavit affirmed on 23rd December, 2015. In paragraph 5, he has given his “no objection” for quashing the subject FIR. 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 he has no objection, if the subject FIR is quashed.

4. The petitioner and respondent No.2 are real brothers. The incident, in question, occurred due to misunderstanding amongst them. Respondent No.2 was required to be admitted in the hospital for a period of 5 days. Be that as it may, both the brothers have now decided to bury the hatchet and we are of the opinion that quashing of the FIR would be in the interest of respondent No.2. 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. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh vs. 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. 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. Accordingly, the writ petition is allowed in terms of prayer clause (b) subject to payment of cost of Rs.10,000/- by the petitioner to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. The petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the writ petition shall stand dismissed automatically without further reference to the Court.

6. Subject to above, the writ petition stands disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]