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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.35 OF 2016

Nadeem Ahmed Khan and Ors.

..Petitioners.

V/s.

Hazarat Ali Chunnu Shaikh and Ors.

..Respondents.

Mr.Moinuddin Khan i/b. Ms.Anjali Awasthi for the petitioners.

Mr.Mohammed Ahmed i/b. Mr.R.D.Mishra for respondent No.1.

Mrs.U.V.Kejriwal APP for respondent-State.

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

DATED : 6TH JANUARY, 2016

P.C. :-

1. Heard learned counsel for the petitioners, learned counsel for respondent No.1 and learned A.P.P. for the State. Learned counsel for respondent No.1 undertakes to file Vakalatnama.

2. 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 F.I.R. bearing No.365/2015 registered with Sir JJ Marg police station at the instance of respondent No.1 against the petitioners for the offences punishable

under Section 342, 386, 394, 506(2) read with Section 34 of the Indian Penal Code.

3. Pending investigation, the parties amicably settled their dispute and in pursuance of said understanding, they have approached this Court for quashing the subject F.I.R. by consent. Respondent No.1 has filed an affidavit dated 28th December, 2015. In paragraph 6, he has stated that he has no objection if the subject F.I.R. is quashed. Respondent No.1 is personally present before the Court. He is identified by his Advocate. On being questioned, respondent No.1 specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection if the subject F.I.R. is quashed. 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. 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 subject F.I.R. 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.

5. Accordingly, the petition is made absolute in terms of prayer clause (a) subject to payment of costs of Rs.25,000/- by the petitioners to be deposited with the Tata Memorial Hospital, Mumbai for the use of its philanthropic purposes within a period of two weeks from today and respondent No.1 also shall pay an amount of Rs.25,000/- to the Mumbai Police Welfare Bank to be deposited with the Axis Bank, D.B.Marg Branch, Mumbai Account No.465010100008693, IFS Code-UTI B0000060 within a period of two weeks from today and thereafter to produce the receipts 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. The payment of costs is condition precedent.

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

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)