

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 45 OF 2016

Sanjeevsingh N. Chadha and Another. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. S. D. Pandey for the Applicants.

Mrs. U. V. Kejriwal, learned APP for the State.

Mr. Jagdish Pandey for Respondent No. 2.

Coram : RANJIT MORE &
S. C. GUPTA, JJ.

Date : **February 3, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties and learned APP for the State.
2. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash the proceedings of a criminal case against them, being CC No.2 of 2008 pending on the file of learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. The said proceeding has arisen from the FIR registered with Juhu Police Station at the instance of Respondent No.2, being CR No.222 of 2007, wherein the allegations made against the Applicants are with regard to the commission of offence punishable under sections 323 and 324 read with 34 of the Indian Penal Code, 1860.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of trial, with the help and intervention of friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above criminal proceedings, by consent of original complainant - Respondent No. 2 herein.

4. Respondent No.2 has filed an affidavit dated 3rd February 2016 wherein he has stated that he has no objection for quashing the proceedings of criminal case being CC No.2 of 2008 pending on the file of learned Metropolitan Magistrate, 22nd Court, Andheri Mumbai.

5. Respondent No.2 is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the criminal proceedings in question initiated by him against the Applicants.

6. 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. 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 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 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 subject criminal proceedings. Accordingly, application is allowed in terms of prayer clause (b). However, in the facts and circumstances of the case we are of the view that the Applicants need to be saddled with costs of Rs.5,000/-, which shall be paid to "**Shanti Avedna Sadan**" an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicants shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*. Registry will then intimate the concerned Police

Station and Magistrate that subject FIR / proceedings shall not be treated to have been quashed and that police / Magistrate shall proceed against the Applicants in accordance with law.

8. At this stage, it is pointed out that the trial Court has issued a Non Bailable Warrant against Applicant No.1 as he did not remain present before the trial Court when the above criminal case was placed for hearing. Since now the proceedings of the said criminal case itself are quashed, the Non-Bailable Warrant issued in the said proceedings is hereby cancelled.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]