

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 263 OF 2016

Pankaj Purohit and Others. ..Petitioners.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. S. N. Raj and Jasptree S. A. i/b Rahul Karnik for the Petitioners.

Mr. F. R. Shaikh for learned APP for the State.

Mr. S. M. Shukla for Respondent No.3.

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

Date : **January 21, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. By this writ petition filed under Article 226 of the Constitution of India, the Petitioners are seeking to quash FIR bearing C.R.No.3 of 2006 registered with Cyber Cell Police Station, Bandra Kurla Complex, Mumbai. The said FIR came to be registered at the instance of Respondent No.3, wherein the allegations made against the Petitioners are pertaining to the offence punishable under sections 408 read with 34 of the Indian Penal Code, 1860 and sections 43(b) and 43(j) read with 65 and 66 of the Information Technology Act.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR,

with the help and intervention of friends and well-wishers, the parties have amicably settled their all differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant petition is filed for quashing the above FIR, by consent of original complainant - Respondent No.3 herein.

3. Respondent No.3 has filed an affidavit dated 19th January 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Petitioners in connection with his FIR against them. He has solemnly affirmed that he is withdrawing all the allegations made against the Petitioners in the said FIR and that he has no objection for quashing the FIR in question against the Petitioners.

4. Respondent No.3 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 subject FIR lodged by him against the Petitioners.

5. 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 crime. 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 subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened. 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 subject FIR. Hence, petition is made absolute in terms of prayer clause (a). However, as the police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle parties with costs. The Petitioners shall pay cost of Rs.25,000/- to the "Tata Memorial Hospital, Mumbai" an institution that takes care of the advanced and terminally ill cancer patients and Respondent No.3 shall pay cost of Rs.25,000/- to Police Welfare Fund. For the quashment to take effect, parties shall pay the said costs and produce receipts 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, petition shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station that subject FIR shall not be treated to have been quashed and that police shall proceed against the Petitioners in accordance with law.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]