

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 264 OF 2016

Ghanshyam G. Gupta and Others. ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Moinddin Khan for the Petitioners.
Mr. Altf Khan for Respondent No. 2.
Ms. S. D. Shinde, learned APP for the State.

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 read with section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking to quash the FIR bearing C.R.No.3 of 2016 registered with Chuna Bhati Police Station at the instance of Respondent No.2. The offences alleged to have been committed by the Petitioners are punishable under sections 323 and 326 read with 34 of the Indian Penal Code, 1860.

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 family members, 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 petition is filed for quashing the above FIR, by consent of original complainant Respondent No. 2 herein.

3. Respondent No.2 has filed an affidavit dated 20th January 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Petitioner in the FIR filed by him, bearing No. CR No. 3 of 2016. He has solemnly affirmed that he is withdrawing all the allegations made against the Petitioner in the said FIR and that he has no objection for quashing the FIR in question.

4. 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 FIR in question filed by him against the Petitioner for the offence punishable under sections 323 and 326 read with 34 of the Indian Penal Code, 1860.

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 Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the FIR in question alive except ultimately burdening the Criminal Courts which are already overburdened.

6. 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 FIR in question. In the circumstances, petition is made absolute in terms of prayer clause (A). However, in the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioners with the cost of Rs.25,000/- [Rs. Twenty five thousand only], 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 Petitioners 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, *petition 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 that the subject FIR shall not be treated to have been quashed and that police shall proceed against the Petitioners in accordance with law.

7. It is reported that in connection with the subject FIR, the Petitioners are in custody. Since we have quashed the subject FIR by the instant order, the Petitioners are directed to be set at liberty forthwith, if not required in any other case.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]