

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 77 OF 2016

Rustam Ali Mohammed Tawwab Shaikh. ..Applicant.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Husen Shaikh for the Applicant.
Ms. Jindagi Shah for Respondent No. 2.
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
 V. L. ACHLIYA, JJ.
Date : **March 4, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the
respective parties and the learned APP for the State.

2. By the instant application the Applicant has invoked
the jurisdiction of this Court under section 482 of the Code of
Criminal Procedure, 1973, seeking to quash the proceedings of an
ongoing criminal case against him which is pending on the file of
learned Metropolitan Magistrate, 69th Court at Sewree, being CC
No. 633/PW/2014. The said proceeding is an offshoot of the FIR
registered with Nagpada Police Station at the instance of
Respondent No.2 for the offences punishable under sections 324,
342 and 323 of the Indian Penal Code, 1860 and sections 37(1) and

137 of the Maharashtra Police Act.

3. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceedings, 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 4th March 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Applicant in the subject criminal case. He has solemnly affirmed that he has no objection for quashing the proceedings of the criminal case against the Applicant initiated at his instance.

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 instituted at his instance against the Applicant.

6. Without commenting in any manner on the nature of offence, we feel it would be just and proper in the present case to exercise our power to quash the proceedings for the reasons the disputes have been amicably settled between the parties and they have decided to bury the hatchet and live peacefully and secondly, the Applicant has shown repentance and has voluntarily made a statement that as a mark of his repentance he will pay some compensatory costs to the victim – Respondent No. 2 herein, as may be ordered by this Court.

7. In exercise of power under section 482 of the Code of Criminal Procedure, 1973, we are guided by the law laid down by the Apex Court in Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] **and** Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], and in the present case we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened

as the parties have decided to put an end to all acrimonies. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the Applicant in the subject case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the proceedings of the subject criminal case in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end.

8. Accordingly, application is allowed in terms of prayer clause (a) subject to the Applicant paying compensation of Rs.20,000/- to victim - Respondent No.2 and cost of Rs.5,000/- to “Tata Memorial Hospital” an institution that takes care of the advanced and terminally ill cancer patients. Both the payments shall be made by way of demand drafts. For the quashment to take effect, the Applicant 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 costs and produce the receipts

within stipulated time, the application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings shall be treated as *non-est*. Registry will then intimate the concerned Magistrate that subject criminal proceedings shall not be treated to have been quashed and that police / Magistrate shall proceed against the Applicant in accordance with law.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]